

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

In Re Generic Docket for the )  
Purpose of Examining TRA Rules, )  
Policies and Procedures in Light of )  
Current Trends in Gas Industries )

**Docket No 05-00046**

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**Report on Workshop Meetings Held July 18, 2005**  
**and October 5, 2005**

**Deborah Taylor Tate, Director  
December 2, 2005**

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## EXECUTIVE SUMMARY

### A. PROCESS AND PROCEDURAL ISSUES

#### 1. MINIMUM FILING GUIDELINES

Recommendation: **The Directors should initiate a docket for the purpose of creating mandatory filing requirements for initiating rate cases.**

#### 2. NOTICE REQUIREMENTS PURCHASED GAS ADJUSTMENT

Recommendation: **The TRA should open a rulemaking proceeding to consider reducing the notice required for gas companies to make purchased gas adjustments to no less than three (3) business days prior to the settlement date for the NYMEX futures front-month gas contract.**

#### 3. SUBMISSION OF PROPOSED ORDERS

Recommendation: **TRA Staff should consult with other state commissions and report to the Directors regarding the efficiencies and accuracies recognized through the inclusion of proposed orders in contested case proceedings.**

#### 4. INTERNAL GUIDELINES REGARDING ADVISORY AND PARTY ROLE OF STAFF

Recommendation: **The Chief of the Utility Division should draft internal guidelines for Staff in each of its roles, as advisor and as a party, and should institute procedures to ensure Staff compliance with same.**

#### 5. PROTECTION OF PROPRIETARY OR CONFIDENTIAL INFORMATION

Recommendation: **TRA Legal Staff should prepare draft statutory language that provides the TRA with an exception from the Open Records Act that is similar to the statutory exceptions provided to other state agencies so that proprietary information of regulated industry is protected without undue regulatory process.**

## B CONSUMER AND SAFETY ISSUES

### 1. SAFETY: PIPELINE REPLACEMENT

Recommendation: **The TRA Staff should review individual pipeline replacement programs with the respective gas company and make recommendations to the Directors. A major focus of this review should be the development of a "pipeline replacement tracker" to effectuate timely, efficient and accountable pipeline replacement.**

### 2. SERVICE QUALITY STANDARDS

Recommendation: **The TRA should encourage all regulated gas companies to voluntarily file service quality metrics and implement a simple procedural schedule for the Consumer Services Division to review these filings on a regular basis.**

### 3. CONSUMER EDUCATION AND OUTREACH

Recommendation: **The TRA and the gas companies should continue outreach efforts regarding the high cost of gas prices this winter and how consumers can benefit from conservation measures and low-income programs.**

### 4. LOW-INCOME ASSISTANCE PROGRAMS

Recommendation: **The gas companies should file in this docket information regarding the methods of funding of low-income assistance programs utilized by other states.**

### 5. RESEARCH AND DEVELOPMENT

Recommendation: **The gas companies and GTI should propose a method of funding Research and Development for further consideration in this docket.**

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Current Trends in Gas Industries	)	

**Report on Workshop Meetings Held July 18, 2005 and October 5, 2005**

Docket No. 05-00046 was initiated in November 2004 to encourage a dialogue between the Tennessee Regulatory Authority ("TRA") and representatives from the Tennessee gas industry, the Consumer Advocate and Protection Division of the Office of the Attorney General, consumers and other interested persons regarding emerging trends in the gas industry and whether current TRA rules, policies and procedures efficiently and effectively address these trends.

**I. Procedural History**

In February 2005, the TRA solicited comments from interested persons regarding whether the rules and procedures, particularly those relating to audits and mandatory filings, should be amended to reflect current trends in the gas industry. The following entities filed comments: Chattanooga Gas Company, Nashville Gas Company, Atmos Energy Corporation, Consumer Advocate and Protection Division of the Office of the Attorney General (the "Consumer Advocate"), and the Gas Technology Institute ("GTI").<sup>1</sup> As a result of the comments received, the docket was further divided into three major areas: (1) process and procedural issues; (2) consumer and safety issues; and (3) substantive issues, including asset management.

A workshop was held on July 18, 2005,<sup>2</sup> to discuss the five procedural/process issues that emerged from the initial comment cycle. These issues include: (1) mandatory filing requirements for the initiation of rate cases; (2) appropriateness of the 30-day notice period required in the Purchased Gas Adjustment (PGA) process; (3) the addition of TRA procedures to allow for the submission of proposed orders; (4) clarification of the TRA Staff role when it is acting as a party; and (5) sufficiency of the protections afforded to companies filing proprietary or confidential information with the TRA. Chattanooga Gas Company, Nashville Gas Company, Atmos Energy Corporation and the Consumer Advocate participated in the process and procedural issues workshop.

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<sup>1</sup> These comments are provided at Tab 3

<sup>2</sup> The July 18, 2005, Workshop Transcript is provided at Tab 1

A second workshop was held on October 5, 2005,<sup>3</sup> to discuss five consumer and safety issues that emerged from the initial comment cycle. These issues include. (1) service quality standards; (2) safety; (3) low-income assistance; (4) research and development; and (5) conservation and education efforts. Chattanooga Gas Company, Nashville Gas Company, Atmos Energy Corporation the Consumer Advocate, and GTI participated in the consumer and safety issues workshop, along with two members of the public: Pat Riley of the Gibson County Utility District and Clifford Swoape, an interested consumer. This report provides recommendations on the first two broad categories of issues.

The third broad category is the “substantive issues category.” The intent was to offer an open forum to provide information to the Directors and Staff on emerging issues in the gas industry. These forums or workshops would provide educational opportunities to learn from knowledgeable experts, members of the academic community, the National Regulatory Research Institute (“NRRI”), and other state commissions outside the purview of a contested rate case. The first topic suggested was Asset Management and several organizations, such as the American Gas Association (“AGA”) and NRRI, have been contacted to identify an experienced presenter.

Prior to the scheduling of the first substantive forum, Chattanooga Gas Company filed a letter in this docket requesting that the TRA convene a workshop to address issues related to the high price of natural gas, including (1) the impact on consumers; (2) the opportunities to address volatility in natural gas prices; and (3) the impact of high natural gas prices on demand destruction. This proposal is consistent with a suggestion at the initiation of this docket to convene a substantive workshop on the general topic of Asset Management. Therefore, the Directors may wish to allow Chattanooga Gas to join this forum, defer this forum until the completion of the docket or to have separate forums with asset managers from each gas company. At this time, a substantive forum will probably need to be scheduled after January 6, 2006.

## **II. Scope of Report**

This report addresses the issues discussed at the July 18 and October 5, 2005 workshops addressing process and procedural issues and consumer and safety issues, respectively. The General Counsel and the Chief of the Utilities Division have been consulted in the preparation of this report and the recommendations included herein.

## **III. Report and Recommendations**

### **A. Process and Procedural Issues**

#### **1. Minimum Filing Guidelines**

To initiate a rate case, gas companies currently file responses to items contained in an informal document entitled “Filing Guidelines for Rate Cases.”<sup>4</sup> The items contained in this document are often referred to as the “minimum filing guidelines.” The Consumer

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<sup>3</sup> The July 18, 2005, Workshop Transcript is provided at Tab 2

<sup>4</sup> The Filing Guidelines are provided at Tab 4

Advocate Division recommended that the TRA make mandatory these voluntary minimum filing guidelines because the lack of a full and complete record at the initiation of a rate case creates the possibility that proposed rates might become effective under Tenn. Code Ann. § 65-5-203 prior to deliberations. The gas companies do not generally support mandatory filing requirements and suggest that if the existing guidelines are instituted that “not applicable” be included among acceptable responses as not all of the existing guidelines are relevant to all gas companies.

**Recommendation: The Directors should initiate a docket for the purpose of creating mandatory filing requirements for initiating rate cases.**

## **2. Purchased Gas Adjustment (PGA) Notice Requirement**

The Purchased Gas Adjustment, or PGA, process is intended to permit a gas company to recover, in a timely fashion, the total cost of gas purchased for delivery to its customers and to assure that the company does not over-collect or under-collect gas costs from customers. Specifically, TRA rule 1220-4-7-.02(3) provides for a 30-day notice period of purchased gas adjustments.

According to the gas companies, the highly volatile nature of wholesale gas markets has created a need for more flexibility than is permitted under the TRA’s existing 30-day notice period for purchased gas adjustments. Moreover, indexing the notice to the monthly closure of the commodities gas market would add additional flexibility that might eliminate the need for future rule modifications. Three days prior to the close of the market should provide the gas companies with enough certainty with respect to purchasing decisions, while still allowing TRA Staff with enough time to process the filing.<sup>5</sup> Thus, by pegging the notice period to an industry factor, the revised rule is dynamic with respect to future trends in the gas industry.

**Recommendation: The TRA should open a rulemaking proceeding to consider modifying the notice period contained in 1220-4-7-.02(3) as follows: “Any revision in the PGA shall be filed with the Authority no less than three (3) business days prior to the settlement date for the NYMEX futures front-month gas contract.”**

## **3. Submission of Proposed Orders**

Several docket participants expressed concern regarding whether the TRA’s decision-making process in contested cases allows for the creation of a complete record prior to deliberations. Specifically, the gas companies suggest that the TRA require the submission of *proposed orders* or *proposed findings of fact* and *conclusions of law* in contested cases prior to deliberation, similar to processes used in North Carolina, Georgia and Florida. The integration of proposed orders into the contested case process may result in prompt resolution of disputed matters and assist with the compilation of a complete

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<sup>5</sup> A redlined version of this section of the rule is provided at Tab 5

record by providing an opportunity for parties to provide important feedback on initial findings of fact and conclusions of law, possibly reducing reconsideration requests and appeals.

**Recommendation: TRA Staff should consult with other state commissions and report to the Directors regarding the efficiencies and accuracies recognized through the inclusion of proposed orders in contested case proceedings.**

#### **4. TRA Staff Role in Contested Case Proceedings**

TRA Rule 1220-1-2-.21 governs TRA Staff's role when it is acting as a party and provides for the designation of certain staff members in contested cases and show-cause proceedings. The rule specifically provides that Staff members who participate as a party shall be bound to follow the same requirements as any other party. The rule also provides that at the soonest possible point, the Authority shall identify the Staff members who have been designated to all interested parties and staff so as to prevent *ex parte* communications in violation of Tenn. Code Ann. § 4-5-304.

Participants in this proceeding have suggested that the lines between TRA Staff in its role as either a party or an advisor could be clarified to the benefit of all. Because these processes are dependent on Staff's implementation of Rule 1220-1-2-.21 and Tenn. Code Ann. § 4-5-304, written internal TRA procedures would be a necessary step in improving the perceived lack of clarity of Staff's role in contested cases.

**Recommendation: (a) The Chief of the Utility Division should draft internal guidelines for Staff in each of its roles, as advisor and as a party pursuant to Rule 1220-1-2-.21.**

**(b) Division Chiefs should review and update these guidelines at least annually.**

**(c) These guidelines should be provided and explained to new TRA Staff as part of orientation.**

**The guidelines should contain procedures for Staff to maintain accurate written records of communications with interested parties, instructions for filing records of communication with interested parties, the type of record to be kept and any other process or procedures to insure predictability, uniformity and appropriate communications with industry representatives.**

#### **5. Protection of Proprietary or Confidential Information**

Under Tennessee law, state records are open to public inspection unless otherwise provided by state law.<sup>6</sup> The TRA has protected company provided confidential and

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<sup>6</sup> Tenn Code Ann § 10-7-503 (2005)



proprietary information by issuing a protective order, which it can only do in adjudication, or contested case. Through the opening of a contested case, the TRA is able to protect sensitive information through an exception to the Open Records Act through the Tennessee Rules of Civil Procedure. This process requires regulated entities and the TRA to expend unnecessary time and resources associated with convening contested cases for the sole purpose of effectuating protection of confidential or proprietary information.

Moreover, other state agencies, such as the Departments of Financial Institutions and Revenue enjoy an explicit state law exception from the Open Records Act which provides them with a more efficient means to protect information filed by the entities that they regulate.<sup>7</sup>

There are important reasons why the TRA should look into its processes for protecting regulated industry's proprietary information. First, there are an increasing number of situations where cooperation from regulated companies is in the public interest. For instance, the gas companies recently entered into a voluntary stipulation to address the TRA's concerns over increased rates of customer cut-offs due to unusually high gas prices. Lack of efficient and effective processes for protecting proprietary or otherwise confidential information may deter companies from voluntarily appearing before the TRA to solve industry-wide problems. Moreover, the lack of efficient processes for protecting sensitive information potentially creates incentives for companies to provide less rather than more information in all agency filings.

Second, an increased level of merger and acquisition activity in the energy industry has expanded the scope of commercially sensitive or proprietary information to include information regarding a regulated company's customers and business model. Therefore, the amount of information that is considered by the companies to be proprietary or confidential has increased.

**Recommendation:** To reduce the regulatory burden on the industry and to streamline existing processes for the protection of proprietary information of regulated companies, TRA Legal Staff should prepare draft statutory language that provides the TRA with an exception from the Open Records Act that is similar to the statutory exceptions provided to other state agencies.<sup>8</sup>

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<sup>7</sup> See, e.g., Tenn. Code Ann. §§ 67-1-1701, 45-1-120 and 45-2-1603. These provisions are provided at Tab 6.

<sup>8</sup> *Id.*

## **B. Consumer and Safety Issues**

### **1. Safety: Pipeline Replacement**

With respect to safety, the issue that surfaced most frequently was replacement of leak-prone cast iron and bare steel pipeline. These materials begin to corrode or deteriorate over a period time and could be hazardous if disturbed by traffic or other hazards. The local gas distribution systems in Tennessee include approximately 165 miles of bare steel and 34 miles of cast or wrought iron pipeline that need replacement.

At least one company has replaced or reinforced its entire leak-prone pipeline and recovered some or all of the associated costs through its rate base. The remaining companies seek a funding mechanism for their pipeline replacement mechanisms. The seriousness of the potential safety risk to the public is a good reason for the TRA to work with the companies to assist in ensuring a timely, efficient and accountable program for pipeline replacement.

Some of the gas companies claim that their current rate base does not allow for recovery of costs associated with pipeline replacement and suggest a "tracker" that is instituted outside of a rate proceeding for the sole purpose of collected from customers the funds necessary for pipeline replacement. Some advantages to a tracker are the accountability associated with an explicit surcharge and the greater degree of control the Authority would enjoy over the replacement program without having to commit resources to a lengthy rate case. In order to eliminate any possibility of double recovery that could result from changing the funding mechanism, amounts that companies have already recovered through the rate base for pipe replacement which has not occurred would require review. Should the TRA initiate a pipeline replacement tracker, the implementation should be subject to an annual or other timely review.

**Recommendation:** The TRA Staff should review individual pipeline replacement programs with the respective gas company and make recommendations to the Directors. A major focus of this review should be the development of a "pipeline replacement tracker" to effectuate timely, efficient and accountable pipeline replacement.

### **2. Service Quality Standards**

The Consumer Advocate Division urges the TRA to request the gas companies to report service quality metrics for their Tennessee operations. In doing so, the Consumer Advocate Division cited a rate case for a water utility where the company "agreed" to report service quality metrics in a settlement agreement. Voluntary reporting can be a means to avoid unnecessary regulation.

At the October 5th workshop, one gas company stated and the Consumer Advocate confirmed that it currently provides voluntary monthly service quality metrics. Another company stated that it is willing to file in Tennessee the service quality metrics it provides in other jurisdictions.

As compared to other utility industries under TRA jurisdiction, the TRA receives relatively few complaints about the gas companies. As such, a voluntary reporting procedure is appropriate.

**Recommendation:** The TRA should encourage all regulated gas companies to voluntarily file service quality metrics and implement a simple procedural schedule for the Consumer Services Division to review these filings on a regular basis.

### **3. Conservation and Education**

The gas companies continue to use bill inserts, newsletters, and customer service representatives to communicate with customers to increase awareness that consumer conservation efforts can substantially impact energy use. The TRA, through its Authority Conference, website, and public service announcements, has taken a lead role this fall in educating the public about the impacts of increasing gas prices and the availability of numerous consumer conservation measures. Additionally, one member of the public participated in this proceeding to increase the awareness of the reliance on natural gas in the production of electric energy, which is often compared for efficiency purposes to natural gas.

Additionally, more than one gas company emphasized that the TRA should recognize that conservation efforts may negatively impact company revenues because lower volumes of gas are sold. Thus, the TRA has a dual role -- to create incentives for the gas companies to promote conservation and to ensure through the rate process incorporates the impact of conservation efforts.

**Recommendation:** The TRA and the gas companies should continue outreach efforts regarding the high cost of gas this winter and how consumers can benefit from conservation measures and low income programs.

### **4. Low-Income Assistance Programs**

There are Federal, state and local components of low income assistance programs to assist consumers with energy costs. The Federal Low Income Home Energy Assistance Program ("LIHEAP") is designed to provide support to the states to help diffuse the impact of higher energy costs on low income households. As Senators Frist and Alexander stated in a 2003 press release, families should not have to choose between

putting food on the table and having heat in their homes.<sup>9</sup> As with other Federally funded programs, support for the state of Tennessee is not guaranteed to remain at existing levels. The gas companies, the TRA and other state and local agencies must continue to demonstrate a need in Tennessee for increased LIHEAP funding support.

The predominant issue discussed in this docket is how and to what extent the gas companies should support local low income programs. The gas companies suggested various means of support, from gas company contributions to consumer funded efforts, and also through a tracker or through the rate base. One member of the public commented that their gas utility district has a successful voluntary program which allows their customers to assist low-income households with heating bills.

The gas companies are in a position to evaluate and provide feedback based on their experience with how other states fund low-income programs. The TRA should continue to partner with companies and agencies statewide to maximize assistance to those eligible and in need.

**Recommendation: The gas companies should file in this docket information regarding the methods of funding of low-income assistance programs utilized by other states.**

## **5. Research and Development**

The Gas Technology Institute ("GTI") states that the TRA rules should be amended to reflect the need for funding of gas-consumer oriented research and development to increase the safety, integrity and efficiency of the distribution system, as well as increase the efficiency of consumer equipment. GTI, with over 300 engineers and scientists on staff, states that it is equipped to aid low income consumers in their ability conserve energy and to develop new energy saving technologies, such as a tankless hot water heater and a smart thermometer.

A FERC program previously funded research and development in the gas industry. The program provided funding at a rate of 1.74 cents per Dth, which was paid by the gas pipelines and passed on to the consumer through the purchased gas adjustment of the local distribution company. The changing national energy marketplace caused FERC to phase-out the program in 1998. GTI proposes the funding of research and development in Tennessee at \$350,000 per company per year, which would maintain funding at the level sustained by the Federal program (1.74 cents/Dth).

The gas companies support research and development generally and GTI's activities specifically. The gas companies agree that funding for research and development is appropriately included in rate proceedings as either an inclusion in the rate base or as a surcharge. One company as part of its last rate case in Tennessee included a \$200,000 contribution to GTI. This company proposed a tracker mechanism because it is not

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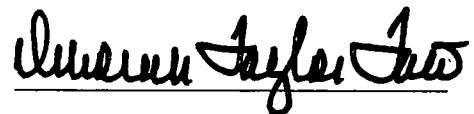
<sup>9</sup>[http://alexander.senate.gov/index.cfm?FuseAction=PressReleases.Detail&PressRelease\\_id=361&Month=12&Year=2003](http://alexander.senate.gov/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=361&Month=12&Year=2003)

planning to initiate a rate case in the near future. This generic docket is an appropriate forum for us to further consider the funding of research and development until a preferred funding mechanism is identified.

**Recommendation: The gas companies and GTI should propose an industry-wide method of funding Research and Development for further consideration in this docket.**

#### **IV. Conclusion**

I respectfully submit on this day, December 2, 2005, this *Report on Workshop Meetings Held July 18, 2005 and October 5, 2005* to further encourage the dialogue between the TRA and interested parties concerning emerging trends in the gas industry.

A handwritten signature in black ink, reading "Deborah Taylor Tate". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Deborah Taylor Tate, Director

# **TAB 1**

**Transcript of July 18, 2005 Workshop  
On Process and Procedural Issues**

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BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN RE: )  
)  
GENERIC DOCKET FOR THE PURPOSE OF )  
EXAMINING TRA RULES, POLICIES AND ) Docket No.  
PROCEDURES IN LIGHT OF CURRENT TRENDS ) 05-00046  
IN GAS INDUSTRIES )

TRANSCRIPT OF PROCEEDINGS

Monday, July 18, 2005

APPEARANCES:

For Nashville Gas Co.:	Mr. James H. Jeffries IV
For Chattanooga Gas Co.:	Mr. L. Craig Dowdy
	Ms. D. Billye Sanders
For Atmos Energy Corp.:	Ms. Misty Smith Kelley
For CAPD:	Mr. Timothy Phillips

Reported By:  
Christina M. Rhodes, RPR, CCR

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1 (The aforementioned cause came on to  
2 be heard on Monday, July 18, 2005, beginning at  
3 approximately 10 00 a.m., before Mr. Richard Collier,  
4 Hearing Officer, when the following proceedings were  
5 had, to-wit )  
6  
7 MR. COLLIER My name is Richard  
8 Collier I will be serving as the moderator today for  
9 this particular forum that we're having  
10 During the Authority conference that  
11 was held on November 22nd, 2004 Director Deborah Taylor  
12 Tate led a discussion with other directors concerning  
13 developing a forum for dialogue between the Tennessee  
14 Regulatory Authority and representatives of the gas  
15 industry, the Consumer Advocate and Protection Division  
16 of the office of the Attorney General, and other  
17 interested persons regarding emerging trends in the gas  
18 industry This dialogue also was designed to address  
19 whether current TRA rules, policies, and procedures  
20 efficiently and effectively addressed these emerging  
21 trends At that conference the directors decided to  
22 convene this docket for the purpose of receiving  
23 comments, convening workshops, and developing  
24 recommendations for future Authority action.  
25 This docket was opened and on February

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1 MR. JEFFRIES Thank you, Mr. Collier  
2 My name is Jim Jeffries I'm outside counsel for  
3 Nashville Gas Company  
4 MS. KELLEY I'm Misty Kelley with the  
5 law firm of Baker, Donelson, Bearman & Caldwell  
6 representing Atmos Energy Corporation. With me today  
7 is Atmos vice president of rates and regulatory  
8 affairs, Pat Childers, and also Sara Murphy who is a  
9 summer associate with our firm  
10 MR. DOWDY Good morning I'm Craig  
11 Dowdy with the law firm of McKenna, Long & Aldridge on  
12 behalf of Chattanooga Gas Company, and with me today is  
13 Steve Lindsey, vice president of Chattanooga Gas  
14 Company  
15 MR. PHILLIPS Timothy Phillips,  
16 Consumer Advocate  
17 MS. SANDERS I'm Billye Sanders with  
18 the law firm of Waller, Landson, Dortch & Davis on  
19 behalf of Chattanooga Gas Company Mr. Dowdy will be  
20 making the presentation on behalf of Chattanooga Gas  
21 Company today  
22 MR. COLLIER Thank you  
23 The notice we sent out said the  
24 parties would have five to ten minutes to make their  
25 presentations Because of the limited number of

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1 the 2nd, 2005 a notice of filing was issued requesting  
2 comments from interested persons or entities The  
3 Authority sought public input regarding whether its  
4 rules and procedures, particularly those related to  
5 audits and mandatory filings, should be amended to  
6 reflect current and emerging trends in the gas  
7 industry  
8 Interested parties were asked to file  
9 comments no later than March 1st, 2005 The following  
10 parties filed comments Nashville Gas Company, Gas  
11 Technology Institute, the Consumer Advocate and  
12 Protection Division, Chattanooga Gas Company, and Atmos  
13 Energy Corporation.  
14 Based upon these comments, a plan for  
15 proceeding with this docket was developed by Director  
16 Tate and presented to the directors and the parties on  
17 May 16, 2005 Director Tate envisioned the dialogue  
18 between the TRA and interested parties as falling  
19 within three major categories First, the process and  
20 procedural issues, second, specific substantive issues,  
21 and, third, consumer issues As an initial step,  
22 Director Tate proposed that the Authority conduct a  
23 meeting to address process and procedural issues  
24 permitting the parties to file additional written  
25 comments in advance of and make oral presentations

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1 parties who requested that opportunity, I'm going to  
2 give each party ten minutes to make an initial  
3 presentation, after which staff or the directors may  
4 ask questions of the parties, and then after that each  
5 party could have up to ten minutes to respond to all of  
6 the comments that have been made  
7 Not necessarily -- it won't be  
8 necessary for you to break your time up I just wanted  
9 to let you know that that would be the structure, that  
10 you-all would have an opportunity to respond to the  
11 comments in general  
12 So I'm going to proceed in the order  
13 of presentation in terms of the filings that were made  
14 and in that order, and that was Nashville Gas Company,  
15 the Consumer Advocate, Chattanooga Gas Company, and  
16 Atmos Energy Corporation.  
17 Are there any questions regarding our  
18 procedure this morning before we start?  
19 (No response )  
20 MR. COLLIER If not, then,  
21 Mr. Jeffries, if would you start, please  
22 MR. JEFFRIES Thank you Good  
23 morning My name again is Jim Jeffries, and I'm  
24 counsel for Nashville Gas Company  
25 I would briefly address two issues

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1 during the meeting  
2 On June 13, 2005 the Authority issued  
3 a notice scheduling the meeting for today for the  
4 purpose of reviewing the comments filed in this docket  
5 addressing process and procedural issues, specifically  
6 including minimum filing requirements, the purchase gas  
7 adjustment rule and the 30-day filing requirements  
8 therein, submission of proposed orders and timeliness  
9 of orders, TRA staff role pursuant to TRA Rule  
10 1220-1-2- 21, and the sufficiency of present  
11 confidentiality safeguards  
12 Persons desiring to participate by way  
13 of oral presentations were asked to file their intent  
14 and additional comments no later than July 1, 2005  
15 The following parties have requested to make oral  
16 presentations Nashville Gas Company, the Consumer  
17 Advocate, Chattanooga Gas Company, Atmos Energy  
18 Corporation. At this time I would like to be sure that  
19 the representatives of those parties come forward and  
20 have a seat at the table Is everyone who is going to  
21 speak before us right now?  
22 (No response )  
23 MR. COLLIER Then I would ask that  
24 counsel and representatives for these parties identify  
25 themselves first starting with you, Mr. Jeffries

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1 that Nashville had identified as their filings in this  
2 docket as potential areas of modification or I guess in  
3 our view an improvement of the existing practices  
4 before the Authority The first deals with the  
5 proposal to modify the Authority's purchase gas  
6 adjustment procedure rules and the second deals with  
7 some potential clarification of the staff role in cases  
8 where they take an active part in the proceedings  
9 I begin with the PGA modifications  
10 Nashville essentially proposes two potential  
11 modifications to the existing PGA rules The first is  
12 a reduction in the notice period for companies to file  
13 a PGA from the existing 30 days to 14 days I think as  
14 most of the people in this room are aware the natural  
15 gas commodity market has dramatically increased in  
16 volatility over the last few years The existing  
17 30-day period prior to filing the PGA was adopted  
18 during a period when the market was substantially less  
19 volatile  
20 This increased volatility in the  
21 commodity market poses an increased risk to the company  
22 of incurring significant deferred account imbalances  
23 because over a 30-day period the prevailing price of  
24 natural gas for the future months can change very  
25 dramatically It can change dramatically as well



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1 during the 14-day proposed period, but you're obviously  
2 eliminating about two weeks of potential risk there in  
3 the notice

4 We don't think that there's any  
5 increased risk to ratepayers as a result of this  
6 proposed change that should allow the companies to  
7 maintain a closer balance between the projected costs  
8 of gas as reflected in the rates to ratepayers and the  
9 actual costs that are incurred in the commodities  
10 market, and while this is not a reason for the TRA to  
11 adopt this proposed change, I would note that at least  
12 in the case of Nashville Gas Company the 14-day period  
13 is the prevailing period that we comply with in the two  
14 other states that we provide natural gas distribution  
15 services, North Carolina and South Carolina

16 The second modification that we've  
17 proposed to the PGA is to eliminate the formula-based  
18 approach. Currently in order to file a PGA there's a  
19 fairly detailed formula that must be followed that  
20 essentially takes notice of the anticipated costs of  
21 gas and permits the company to propose a change based  
22 on changes in that cost. That's a theoretically sound  
23 approach, however, it does not take into effect all the  
24 potential relevant factors, at least from the company's  
25 perspective, that need to be considered in adjusting

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1 legal argument, and assisting the TRA in reaching a  
2 decision based on the evidence submitted by those  
3 parties and the proposals to resolve issues that are  
4 pending in any given case

5 The second role is as a party and  
6 that's a more active role, and, in our view, it's  
7 triggered most closely when the staff is engaging in  
8 discovery and proposing their own resolutions in a  
9 case

10 In Nashville's experience we've not  
11 always been clear which role the staff has been  
12 operating under. Under the existing rules -- the rules  
13 do have some provisions for identification of the folks  
14 on the staff that are operating as a party. I'm not --  
15 it's not clear to me how those rules or that aspect of  
16 the rules has been implemented in the few years that I  
17 have been appearing before the Authority, but the  
18 bottom line is at least as to Nashville we're not  
19 always entirely sure whether the staff is acting in an  
20 advisory or as a party role

21 We also believe that when the staff is  
22 acting more like a party and in an active fashion --  
23 and, again, the characteristics that I would assign to  
24 that sort of activity is if they are engaged in  
25 discovery or if they are proposing substantive

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1 PGAs, and, again, the goal here is to try and maintain  
2 as close a balance between the actual costs of gas that  
3 are incurred by the companies and the projected costs  
4 that are reflected in consumers' rates in order to  
5 maintain a small balance, either positive or a negative  
6 in the customers -- or in the deferred gas cost  
7 account.

8 The multiple -- there are actually at  
9 least three factors that the companies need to take  
10 into consideration when they set the cost of gas rates  
11 and incorporate it into their rates. The first is the  
12 projected cost of gas going forward, and that's what  
13 the current rule is based upon. However, there are two  
14 other important factors that the companies also have to  
15 consider. The first is the existing deferred account  
16 balance because that -- again, if that balance becomes  
17 too large, either positive or negative, it can create  
18 false incentives for people to purchase or not to  
19 purchase natural gas, particularly those folks that  
20 have an option whether or not to do so. And the  
21 management of that deferred account balance is one of  
22 the biggest challenges that the companies face under  
23 the existing PGA mechanisms

24 The second is the companies also have  
25 to factor in what time of year it is. It's much easier

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1 solutions that are different than those submitted by  
2 the active parties -- we think all of the parties  
3 engaged in the case before the Authority are  
4 disadvantaged.

5 First, from the active designated  
6 party perspective, which could be the individual  
7 companies and the Attorney General or any other  
8 intervenors in the case. Those folks don't have the  
9 ability to know or to address staff proposals in the  
10 hearing -- in the discovery and in the hearing process  
11 if staff is proposing a different resolution or may  
12 propose a different resolution than what the parties  
13 proposed. So we think that creates some disadvantages  
14 for the active parties as the case proceeds

15 Second, we believe staff is at a  
16 disadvantage because in those situations where they may  
17 want to provide the commission with an active or with a  
18 proposal for a resolution of a case they essentially  
19 have to rely on the evidence that's submitted by the  
20 active litigants, and that evidence may or may not  
21 provide the basis for them to make their proposals to  
22 the Authority. So we think in that role the staff  
23 itself has -- may have some difficulties in undertaking  
24 all that they may want to do in the case

25 From the Authority's perspective, we

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1 in the winter heating season to influence the balance  
2 in the deferred accounts or for a miscalculation in the  
3 proposed cost of gas to have a dramatic effect because  
4 during those months that's when your through put is  
5 highest, and obviously a difference between the  
6 proposed cost and the actual cost of gas is magnified  
7 during that period

8 In the summer period it's very  
9 difficult to change a deferred account balance even  
10 with dramatic changes in the average cost of gas  
11 calculated in the companies' rates because a through  
12 put is dramatically decreased. Eliminating the formula  
13 approach would allow the company to take all those  
14 factors into consideration in order to try to manage  
15 that deferred account in as efficient a manner as  
16 possible and to reduce the possibility of large under  
17 or over recoveries

18 The second issue I would like to take  
19 up very briefly is a clarification of the staff role  
20 Nashville Gas Company perceives that there are  
21 essentially two staff roles that can be undertaken in  
22 cases before the TRA. The first is as an adviser to  
23 the TRA, and in Nashville's view that is essentially in  
24 most cases a more or less passive role, one of  
25 evaluating the evidence submitted by the parties, the

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1 think the Authority is also at a disadvantage because  
2 in a dynamic where you have active parties presenting  
3 evidence and proposing solutions to a case but you have  
4 staff proposing a separate solution, the first time  
5 that the active parties as I mentioned before have an  
6 opportunity to see what it is that staff may be  
7 proposing is when the commission -- or when the  
8 Authority issues its order, and in that case the only  
9 way the active litigants can explore that solution or  
10 address it or provide input if they have ideas about  
11 whether it's a good idea or a bad idea is by taking  
12 reconsideration or appeal of the Authority's decision.

13 Based on all this, we think it's a  
14 better system that's more likely to reach clear well  
15 understood and fully explored resolutions if the staff  
16 is an active party in the litigation when they are  
17 acting in an active role and particularly where they  
18 take discovery or act as a proponent of a specific  
19 resolution that's not contained in the evidence or the  
20 proposals of the other active litigants

21 Our specific proposal is that the  
22 commission's rules be -- or the Authority's rules be  
23 modified to require notice of participation as a party  
24 if the staff intends to take an active role in the  
25 litigation, and we think that would put everybody on an

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1 equal footing and improve the process and procedures  
2 and would also avoid any possibility of inadvertent  
3 ex parte communications Thank you

4 MR. COLLIER Mr Jeffries, I have a  
5 few questions regarding the second issue that you  
6 raised. Your proposal is that in those instances where  
7 staff would take a position that you would have them  
8 identify themselves or have the Authority identify  
9 staff and have staff actively engaged in the docket as  
10 a party?

11 MR. JEFFRIES That's correct.

12 MR. COLLIER Can you give me an  
13 instance where there was an unclear situation or where  
14 staff took an active role in the docket but was not  
15 designated as a party?

16 MR. JEFFRIES Yes, I can give you a  
17 couple of situations that I found perplexing, and none  
18 of these comments imply any sort of criticism of either  
19 the staff or the process We just looked at it and had  
20 some moments of confusion and thought these sort of  
21 steps might help things, but I recall and I believe  
22 this was either Nashville Gas Company's last rate case  
23 or possibly one of the annual audit proceedings where  
24 we received a set of discovery from staff I believe  
25 it was a rate case because there was a procedural order

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1 any communication between the folks he was working with  
2 and those folks that were acting in the advisory  
3 capacity, but there was never anything in the record  
4 that I saw that sort of clearly indicated that, okay,  
5 these folks are doing this and these folks are doing  
6 that, and it created at least some confusion on our  
7 part as to whether -- who could we talk to about this  
8 as adverse parties and, you know, who could we not.

9 MR. COLLIER So in the first instance  
10 the case involved probably what was a staff data  
11 request that was separate from any other discovery that  
12 the parties were doing in the case, is that correct?

13 MR. JEFFRIES Right. And I don't  
14 mean to suggest by any means that the staff is not  
15 entitled to issue discovery requests We don't have  
16 any problem with that. It's that all of these  
17 suggestions are built more on the process, on trying to  
18 make the process clear and so that we can understand or  
19 be sure that we understand what the rules and  
20 procedures are

21 MR. COLLIER And I want to be sure  
22 that I'm understanding what your concern is, and is  
23 your concern whether or not advisory staff should have  
24 the ability to issue staff data requests or is your  
25 concern that staff data requests that are issued by

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1 in place for the taking of discovery and responses and  
2 procedures established for filing objections and things  
3 of that nature

4 And the company had a fairly mundane  
5 question to ask the staff about the discovery We  
6 weren't intending to object, but we had a question  
7 about the timing because of a number of different  
8 things going on. We had a fairly short fuse on that.  
9 And we -- we tried to -- and it seemed pretty clear  
10 from the procedural order that the staff was not a  
11 party to the case or it wasn't -- we had a procedural  
12 order that we purported to establish discovery  
13 procedures but staff appeared to be operating outside  
14 that order both given the timing of the discovery  
15 request and also the fact that there didn't seem to be  
16 a provision in the schedule for the staff taking  
17 discovery The company had no problem with the  
18 discovery, but we did have a problem with answering it  
19 within the time frame that the answers were requested

20 And I called over to the staff unclear  
21 and wanted to talk to one of the staff counsel about  
22 the situation because I wasn't unclear -- or I wasn't  
23 clear what procedures covered this particular request,  
24 and the response I got was that the staff couldn't talk  
25 to me because it would be an ex parte communication.

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1 advisory staff do not fall within the procedural  
2 guidelines for a particular case or that there's no one  
3 that the parties can speak with about those requests?  
4 Which is your concern or is it both?

5 MR. JEFFRIES I think it was the  
6 second and third. It's certainly not -- we don't have  
7 any concerns with the ability of the staff to issue  
8 data requests We think there's ample authority for  
9 you folks to ask us questions about what we do and the  
10 filings we make But it's really more a process issue  
11 of how do we deal with the practicalities of that and,  
12 you know, what are the relative procedural rights

13 I have trouble imagining the staff  
14 data requests that we would, you know, say we're not  
15 going to answer that, but there may be times where the  
16 scope of the request is problematic or maybe we don't  
17 have the information that you've asked for but we've  
18 got other information that's very similar that we think  
19 you may want. In order to facilitate the  
20 communications and in order to have time lines that are  
21 defined and that we can know -- because right now a  
22 contested case we've basically got -- we get a  
23 procedural order that says these are the guidelines for  
24 the parties but then superimposed on that at this point  
25 is sort of a less formal, less spelled-out process in

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1 So I was in a curious position of having an essentially  
2 procedural question and wanting to ask for three more  
3 days to respond to some discovery and we couldn't have  
4 that conversation because of -- at least the view was  
5 that may be an ex parte communication. So it was sort  
6 of Catch 22 I guess from our perspective that we didn't  
7 know what the rules were governing that situation.

8 More recently in the IPA audits that  
9 have been I guess a matter of dispute between the staff  
10 for 2003 and 2004, the staff has made some substantive  
11 recommendations about disallowances and most recently  
12 changes to the company's approved incentive plan that  
13 for the 2004 audit those issues have been -- have now  
14 been set for a separate adversary proceeding It's my  
15 assumption that staff will be an adversary party or  
16 designated as an adversary party in that proceeding,  
17 but I haven't seen anything that makes that certain

18 But in both 2003 and 2004 we weren't  
19 sure as a company whether they were in their role in  
20 those audit proceedings whether they were a party --  
21 or, you know, to be treated as an adversary party or  
22 not. One of the counsel for the Authority indicated to  
23 me informally in the 2003 audit anyway that they were  
24 acting as an adversary party and there were Chinese  
25 wall provisions put in place to prevent -- to prevent

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1 responding to questions from staff  
2 It seems to us it would be easier to  
3 have that sort of thing when it's appropriate, and I  
4 understand that sometimes the State is going to issue  
5 discovery that is simply informational and not aimed at  
6 trying to establish a separate -- a separate resolution  
7 or position, but it's really just trying to identify or  
8 trying to clarify what staff's role is and what the  
9 procedures are governing that role

10 MR. COLLIER And I will address this  
11 to all the parties at the table Is it clear to the  
12 parties that staff data requests are requests that are  
13 issued by staff on behalf of the Authority and not  
14 staff as a party? Is there any question about that?

15 (No response)

16 MR. COLLIER No one is indicating  
17 that there's a misunderstanding. In commenting on what  
18 you said, Mr Jeffries, in some instances when  
19 discovery responses come in to cases those generate  
20 additional questions on behalf of the Authority through  
21 its staff, and that generates perhaps additional  
22 questions in the form of staff data requests which  
23 would fall outside of the procedural order that may be  
24 in place

25 In part, one of your concerns I think

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1 might be addressed through the use of staff data  
2 requests, and I'm going to call them data requests to  
3 distinguish that from staff discovery where staff is a  
4 party in a case. But I think one of your concerns  
5 could be addressed by staff data requests in that those  
6 data requests are issued and made a part of the record,  
7 so those questions are out there to the parties and the  
8 responses that come in are also part of the record.  
9 Therefore, the Authority is developing a record that  
10 would support particular positions that the Authority  
11 may take in its deliberations.  
12 And I think that was one of your  
13 concerns, was whether or not staff can develop a record  
14 and how they develop a record. Well, I think that's  
15 one way that the record is developed. I think it's one  
16 that's made available or obvious to all the parties  
17 because everything that goes through the data requests  
18 and through the responses is made a part of the record.  
19 So I just want to be sure I'm honing  
20 in on the concern. One of the concerns is that it  
21 falls outside of the procedural schedule, and,  
22 therefore, the parties may not know how to go about  
23 requesting additional time or completely responding or  
24 it may back them up in terms of the procedural  
25 deadline, is that correct?

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1 MR. JEFFRIES: Correct.  
2 MR. COLLIER: One other thing that you  
3 mentioned, Mr. Jeffries, and that was the possibility  
4 of the Authority developing a position that would be  
5 different from a position proposed by any other  
6 parties -- I won't say both the parties because there  
7 may be more than two parties in the case -- and your  
8 concern about whether or not a record would support  
9 that position that's taken.  
10 In that position are you indicating  
11 that the Authority should be restricted to choosing  
12 between the positions that are put forth in the docket,  
13 or are you allowing the Authority to have the latitude  
14 to say we don't agree with any of these positions but  
15 based upon our expertise and based upon the record we  
16 can develop a position or resolution of the case that's  
17 different?  
18 MR. JEFFRIES: No. I think it's clear  
19 that the Authority has the ability to rely on their  
20 expertise and their experience to formulate a  
21 resolution of a matter that may differ from what the  
22 active parties have proposed, and we don't dispute in  
23 any way the Authority's ability to do that. I think it  
24 becomes -- it's real -- I guess the way we view this is  
25 that we took Director Tate's invitation to make

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1 suggestions that we think would be a best practices  
2 kind of approach, so we don't -- from our view the  
3 purpose of this proposal is to tweak the process as it  
4 were.  
5 And our thoughts are that there's two  
6 benefits when staff is designated as a party. One, it  
7 allows them -- they don't have to rely just on  
8 responses to data requests, which may or may not give  
9 them the answers they're seeking, depending on how the  
10 questions are interpreted and what information is  
11 provided, because if they are an active party, then  
12 they have the opportunity to present affirmative  
13 evidence in the form of testimony and the opportunity  
14 to cross-examine witnesses and fully develop their  
15 position, and the second aspect of it is it provides  
16 the commission with a potentially more complete record.  
17 And I don't -- I don't pretend that  
18 it's always crystal clear or it's always black or  
19 white. I think there are areas in the middle where  
20 staff may, in their advisory capacity, advise the  
21 commission that, well, we don't think the solutions  
22 that the parties have proposed are exactly right and  
23 here's a third alternative that's supported by the  
24 evidence.  
25 But I think -- at least in my

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1 experience I think there are situations where staff is  
2 more clearly in that role of, you know, at the outset  
3 we know we think we want to do some things here that  
4 are different than are proposed, and in that role and  
5 in those instances I think it's -- it would have  
6 procedural benefits and process benefits for them to be  
7 engaged, and I think, in fairness, the existing  
8 Authority rules anticipate the staff acting in that  
9 capacity and there being an indication that that's the  
10 case. And it may be that no significant changes to the  
11 rules are even necessary, maybe just a practice  
12 refining would be appropriate in our view to improve  
13 the process.  
14 MR. COLLIER: Would you be advocating  
15 that staff be designated or certain staff I should  
16 say -- because we do have staff as a party and at the  
17 same time we may have staff in an advisory role, and  
18 those members of staff -- there's a wall between them  
19 MR. JEFFRIES: That's my  
20 understanding, but my experience has been that it's  
21 not -- it is my understanding that that is the  
22 practice, but I have never seen a designation in the  
23 case that these members of staff -- and I think that's  
24 what's contemplated by the existing rule, and it may be  
25 lack of experience on my part or ignorance of some of

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1 the processes that occur within the staff, but I  
2 personally have not seen the designation.  
3 MR. COLLIER: Well, if that's not  
4 clear to the parties, then certainly we need to make  
5 that clear. Our intent, though, in instances where  
6 staff files a notice of staff appearing as a party is  
7 the notice to the parties in the docket as to who will  
8 participate and signed by an attorney who will  
9 represent staff as a party and not be involved in the  
10 advisory capacity.  
11 In the audit cases when a staff member  
12 files the audit as part of the docket or even in  
13 conducting the audit that the staff person is a party  
14 and does not perform an advisory function at all in  
15 terms of the resolution of the case by the directors,  
16 but if that's not clear to the parties, then I  
17 appreciate you bringing that to our attention and we  
18 need to make that clear.  
19 What I want to be sure that I  
20 understand is whether or not you're advocating that in  
21 any contested case, whether it be an audit that  
22 develops into a contested case or a rate case that  
23 staff should declare itself as a party up front and  
24 then become part of that docket, whether it chooses to  
25 participate in all the issues or selects specific

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1 issues to be involved in. My question to you is are  
2 you asking that staff be a party initially in those  
3 types of dockets?  
4 MR. JEFFRIES: I don't think we're  
5 asking for a black-and-white rule that in every case  
6 staff must designate itself as a party, but to the  
7 extent that staff intends to take an active role in the  
8 case and knows that at the outset, I think it would  
9 benefit the process for everybody.  
10 MR. COLLIER: Now I can narrow it  
11 down. What is your definition of an active role? Does  
12 that include staff data requests or are you speaking  
13 about discovery or advocating a position on the record?  
14 MR. JEFFRIES: Well, I think we can  
15 probably distinguish between the data request issue and  
16 the formulating active proposals for the resolution.  
17 I've explained to you that the experience I had with  
18 the staff data requests, which was just a procedural  
19 awkwardness about it. There wasn't any real  
20 substantive issue there, and maybe that -- that  
21 particular concern is really just something that could  
22 be handled either through establishment of procedures  
23 at the outset or some sort of clarification so the  
24 parties could understand what the procedures are for  
25 responding to staff data requests.

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1 And I also acknowledge that there's  
2 some discretion involved in this, but our concern is a  
3 situation where the staff may -- they may take  
4 discovery and they may look at the case. They may have  
5 an active opinion that they know relatively early in  
6 the case may be different than what some of the parties  
7 are proposing, and in that situation we just think  
8 there are benefits to the process and to the Authority  
9 to know or for them to participate as a party litigant  
10 primarily so that those positions can be explored in  
11 the hearing process  
12 MR. COLLIER And in saying that,  
13 you're -- you're not saying that advisory staff in  
14 formulating a position based upon the record as the  
15 record is concluded needs to make that known to the  
16 parties in advance of advising the directors?  
17 MR. JEFFRIES No  
18 MR. COLLIER I don't have any other  
19 questions. Thank you very much, Mr. Jeffries. Thanks  
20 for answering all these questions.  
21 MR. JEFFRIES Thank you.  
22 MR. COLLIER Next will be the  
23 Consumer Advocate, Mr. Phillips.  
24 MR. PHILLIPS I'm sure everyone will  
25 be glad to hear that I don't have anything to add to

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1 down to the merits efficiently and quickly. That's  
2 just a part of the adversarial process. But at the  
3 same time, if we can get to this agency a full and  
4 complete filing, one that includes those minimum filing  
5 requirements, I think that is a very important start.  
6 And while, you know, we had designed  
7 those such that the agency and the parties before it  
8 had in mind what needed to be filed -- and I'm not  
9 pointing fingers. I'm sure Mr. Dowdy can elaborate and  
10 comment and he will. But we did struggle through that  
11 Chattanooga Gas case. We have seen some other gas --  
12 there were some other filings that the minimum filing  
13 requirements were I think more closely adhered to, and  
14 I know that at this point the idea is that they are  
15 voluntary. And if that's something that a utility is  
16 going -- if we are going to have to fight over in the  
17 middle of it, I think it's best that we just go ahead  
18 if we need to review those minimum filing guidelines  
19 themselves with each specific request, are they too  
20 many, are we not covering everything?  
21 I think that's a different issue, but  
22 at this point at least making them mandatory in some  
23 fashion. I think it will really help us along the way  
24 with doing rate cases, and we are going to have other  
25 rate cases. That's what this agency is about and

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1 our written comments. I do know of a couple questions  
2 that I have that I will just go ahead and throw out in  
3 case somebody wants to address them as they go along  
4 and have them beforehand.  
5 Because I think -- I'm assuming at  
6 this point that if we do get some good ideas out of  
7 this forum, it's going to end up in some type of  
8 rulemaking procedure, and at that point we could  
9 address specific rules as they are written. I do have  
10 a couple questions with respect to what Atmos filed and  
11 they've actually presented their rule from I think the  
12 Georgia statute or the Public Service Commission, and  
13 I'm wondering first is the reference there to Consumer  
14 Utility Council if they could address the idea of how  
15 the Consumer Advocate here in Tennessee would fit  
16 within that framework of what they're proposing with  
17 respect to the Open Records Act or Open Records  
18 Procedures.  
19 And also with respect to the divulging  
20 of trade secrets by this agency, there's a reference in  
21 there as to the liability of the TRA. If they have --  
22 if there's comments today, I would like to hear them  
23 about as to how that -- how that legal framework would  
24 actually be approached with respect to how to develop  
25 that actual liability on the part of this agency.

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1 making sure that we've got reasonable, just rates that  
2 consumers are paying.  
3 MS. STANDLEY Just so I'm clear,  
4 you're not saying that the guidelines -- you're  
5 comfortable with those right now? You're not  
6 addressing that issue, on whether they need any type of  
7 revision? You're just addressing that they become  
8 mandatory versus voluntary?  
9 MR. PHILLIPS That's what we're  
10 proposing. That's what we would suggest. If you're  
11 going to look at these rules and do a rulemaking,  
12 that's something I think we would like to see  
13 addressed, and the specific guidelines themselves -- I  
14 think that's a separate issue, but if there is a  
15 concern about, you know, some of the guidelines, then,  
16 you know, I think it could be as a collateral issue  
17 addressed there.  
18 But, no, I think it would be important  
19 for us to get past this idea that when the company  
20 brings in a rate case that it just needs to be filed to  
21 get the clock running. What it needs to be -- the  
22 clock needs to run -- and I realize that's another  
23 option, but the clock needs to run when everyone, this  
24 agency, and the Consumer Advocate has the information  
25 it needs to move forward, otherwise we run into some

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1 Thank you.  
2 MS. STANDLEY Hi, Mr. Phillips.  
3 Darlene Standley.  
4 Can you elaborate a little bit on the  
5 comments regarding the minimum filing guidelines?  
6 MR. PHILLIPS I can if you want.  
7 Frankly, I think what we're relying there on is  
8 primarily when a rate case is started here, no matter  
9 what genesis it is, but in particular when a -- at  
10 least when a company brings this agency a filing for a  
11 rate case, both the staff, the Consumer Advocate, and I  
12 think representatives from the gas utilities develop  
13 those filing guidelines as a way of getting the case  
14 started in such a way that we could -- we could push  
15 through in a orderly and efficient fashion or manner  
16 within the time limits that we're given. We've got six  
17 months -- it's actually nine months, but for the most  
18 part we try to get that done within the six months.  
19 And a rate case is I think tough. As  
20 you all know, I don't have a long background in  
21 utilities law, but from what I've seen so far,  
22 especially with the gas companies, those rate cases can  
23 be quite complex, and we're always going to have some  
24 procedural issues. We're always going to have other  
25 issues that somewhat take us away from getting right

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1 problems towards the end. And it's at the end where  
2 we're either rushing about or sometimes -- I mean, just  
3 from my -- from the Consumer Advocate's perspective, a  
4 lot of times in the procedural schedule it's the  
5 Consumer Advocate's portion of discovery or whatever  
6 that everyone wants to turn back, and I realize that  
7 probably everyone feels that way, but we've certainly  
8 felt that way at times.  
9 MS. STANDLEY Thank you.  
10 MR. COLLIER Mr. Phillips, just in  
11 terms of what you just raised the Consumer Advocate and  
12 the company getting together and having all the  
13 information before the rate case is filed, let me just  
14 ask you a question based on Mr. Jeffries' comments.  
15 What would be your position in terms of staff appearing  
16 as a party in a rate case when the role of the Consumer  
17 Advocate is spelled out to basically replace that role  
18 of staff?  
19 MR. PHILLIPS We always like to have  
20 some help, but I realize that that's a completely  
21 different question. I'm not -- and it was good to hear  
22 kind of the -- your questions. I had some similar  
23 questions, but you covered most of them -- actually all  
24 of them. Because it seems to me that, you know, there  
25 are other ways to approach the problem of is staff

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1 participating in an advisory role or are they  
2 participating as -- "advocate" might be the wrong term  
3 Are they participating as an interested party?  
4 If there ever is any concern -- it all  
5 seems to kind of circle back to ex parte  
6 communications If there ever is a concern, they can  
7 feel free to call us We can participate in that phone  
8 call, especially if we're the interested parties I  
9 realize time frames may make that more difficult.  
10 Another answer might be calling staff  
11 and then agreeing with staff that whatever you tell me,  
12 whatever we say, I'm going to send a confirming letter  
13 or some type of written follow-up that we can then file  
14 in the record, and then there's less question about  
15 what went on.  
16 I'm not proposing ex parte  
17 communications I think that sometimes we're all  
18 sitting in a rate case we're always kind of wondering  
19 what you guys are thinking, you know, predictions and  
20 whatnot. And when we don't know -- when we don't have  
21 a good prediction, obviously that's a little  
22 frustrating, but it's a frustration that's a necessary  
23 evil or that's necessary There's no evil there That  
24 it's necessary because otherwise, I mean, how --  
25 depending on how deep you get into that, what kind of

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1 chilling effect is that going to have on the staff in  
2 an advisory role  
3 And specifically with respect to -- I  
4 will go back to another case that is still pending  
5 here, and that is the Atmos incentive plan, the two  
6 dockets open There the staff has clearly declared at  
7 least a portion of them, that they are parties in that  
8 docket. Oddly enough, the way it works out in one  
9 docket they are squarely with us In the other docket  
10 I'm not quite sure they are squarely with us, but at  
11 least from that position.  
12 So I don't know that -- and like I  
13 say, I think Mr Jeffries as suggested, hey, look you  
14 asked for ideas we're trying to give you ideas I  
15 don't think they're complaining. I'm just not sure we  
16 have a problem that needs to be addressed differently  
17 Another example would be the  
18 Chattanooga Gas case, and there I think Chattanooga Gas  
19 raised -- after the case was concluded we get a  
20 decision from the directors There Chattanooga Gas  
21 said, no, no, wait a minute, this was not -- this  
22 wasn't recommended -- I will just take the two  
23 witnesses I think they were primary roles --  
24 Dr Brown or Dr Morin. You know, these don't fit  
25 here Well, you know, we felt at the time that the

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1 record was there and what -- the path that staff had  
2 chosen was correct  
3 Well, the procedure there was for them  
4 to follow the petition to reconsider That's what we  
5 did. We have now gotten a new decision from the  
6 bench -- from the directors about that, so I think  
7 there's a procedure there in place to take care of  
8 that. My question might -- the questions I think you  
9 would have to answer with respect to that perspective  
10 on how -- you know, what role does the staff play, how  
11 deep are you going to get into that? How much of  
12 staff's opinion has to be made public? You know  
13 there's some case law on that. I think we differed on  
14 what we wanted I know within the Consumer Advocate  
15 there's some difference of opinion.  
16 Once we see -- once we see a proposed  
17 rule, then I might be telling you something different,  
18 but one of my concerns would be what are you -- how are  
19 you changing the staff's role and are you going to have  
20 a chilling effect on what the staff is telling  
21 directors or are you making the staff in some way --  
22 because of that give and take are you making them  
23 mediators in an adversarial position, and mostly I  
24 would think, if I understand it correctly, staff's  
25 opinions that would be at issue are going to be formed

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1 towards the latter part of a rate case Well, where  
2 does that send us once that happens? You might --  
3 instead of being more efficient, it might be less  
4 efficient.  
5 MR. COLLIER Thank you, Mr Phillips  
6 Any other questions?  
7 (No response )  
8 MR. COLLIER Chattanooga Gas  
9 MR. DOWDY Thank you very much.  
10 Mr Collier First let me say that we are in large  
11 agreement with the remarks that have been made by  
12 Mr Jeffries and that will be made by Atmos, and to  
13 some extent they have covered those items in more  
14 detail than we did in our written comments or I will  
15 today That being said, we may have a difference of  
16 opinions on certain aspects The underlying issues,  
17 and the answers to your questions as it relates to the  
18 company may be different than it is for Nashville Gas  
19 But when you look at the start of this  
20 proceeding and if you look at what Director Tate had  
21 recommended and you look at emerging trends, I think  
22 that's a good starting point. If you are looking at  
23 where this industry has come through the '80s through  
24 the '90s and now the 2000s, you see a number of things  
25 One, I think you see a general recognition at least by

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1 the industry and some regulators that traditional rate  
2 cases at best are very inefficient. They are extremely  
3 expensive and in today's environment quite often have a  
4 difficult time dealing with all of the complex issues  
5 that are presented today in a rate case proceeding  
6 I think in addition to that, today  
7 more than in the past anytime you've got a utility  
8 before you, analysts and Wall Street are following the  
9 proceedings here, and you can have severe negative  
10 consequences, unintended consequences to the  
11 traditional rate case proceeding that were not that  
12 case in the past. You can have market capitalization  
13 drop within hours of a decision which appears to be or  
14 at least is perceived to be adverse  
15 So for all of those reasons at least  
16 the industry would like to see the ability to have more  
17 streamlined rate cases, the less of the need for more  
18 frequent rate cases, and all this plays into looking at  
19 specific issues like capital investment and those that  
20 will transcend a number of years beyond the attrition  
21 year, specific programs that may be presented like  
22 pipeline safety replacement programs and as well things  
23 that will transcend between rate cases that should be  
24 able fairly easily to be set automatically like  
25 low-income assistance items that where the dollar

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1 amount and the number of customers may vary from year  
2 to year between rate cases, yet that can be set and a  
3 mechanism can be in place and those things handled  
4 efficiently -- much more efficiently than a rate case  
5 In addition, as Mr Jeffries  
6 commented, gas purchasing is extremely volatile today  
7 and much different than what we saw ten years ago  
8 When you look at the issues of gas purchasing capacity  
9 planning today, I think it is appropriate to review the  
10 rules and determine whether or not in this environment  
11 that has changed and those rules continue to be the  
12 appropriate ones from a state policy standpoint. When  
13 you look at asset management, that's -- really over the  
14 last ten years has developed from fairly infant-type  
15 stages of concerning hedging and capacity swaps to now,  
16 a very sophisticated program in most jurisdictions  
17 which does enure to the benefit of ultimately consumers  
18 in that it allows for fallow assets to be utilized to  
19 their maximum extent from a monetary basis and in a  
20 number of jurisdictions today that monetary value being  
21 shared with consumers  
22 The fact that you normally have third  
23 parties performing that level of expertise raises a  
24 number of issues as it relates to the confidentiality  
25 of documents as the Authority does its audits, and,

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1 again, that creates the need for those rules to be  
2 reviewed, and we appreciate this opportunity to do it.  
3 In that regard, I think you will find that in today's  
4 environment with third parties like asset managers and  
5 even with utility documents there is a greater  
6 sensitivity to the confidential nature of those  
7 documents

8 One, by the utility because  
9 competition today is more than it has been in the last  
10 15 to 20 years. Competition heated up in the late '70s  
11 and '80s and has continued between energy providers  
12 And in this industry when you look at natural gas,  
13 every end use we have is a competitive end use. We  
14 have no captive loads, and that is only with the  
15 exception of two or three industrial-type loads in  
16 which natural gas is actually used as a feed stop, but  
17 other than that limited exception, every energy source  
18 end use we have can be substituted for another fuel  
19 source, and today, therefore, providing data on our  
20 customers or their usage or our expectations of their  
21 usage is extremely sensitive commercially and  
22 competitively to the utility

23 In addition, from an end use customer  
24 standpoint, today fuel costs for most customers is a  
25 significant part of their cost of doing business, and,

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1 parties and thereafter more efficient and much less  
2 expensive

3 In addition, there may be times when  
4 the Authority should look at certain types of issues  
5 like mergers and acquisitions and synergies potentially  
6 from a workshop standpoint outside of a rate case to  
7 determine what is the best state policy. You find -- I  
8 think the Chattanooga rate case is one of those that  
9 might verify this. That when you have a rate case you  
10 are on a time deadline and you have multiple issues to  
11 look at and to pay attention to and the ability to sit  
12 down with discrete issues that might need some  
13 deliberation as to state policy is sometimes limited,  
14 and being able to have a workshop to look at what the  
15 best state policy is for synergies on acquisitions and  
16 mergers I think is a good idea

17 In addition, being able to streamline  
18 those types of capital costs that are clearly mandated  
19 but the cost may vary from year to year outside of the  
20 attrition year like the pipeline safety program that  
21 was in that case may be another case where it is better  
22 for the Authority to have a workshop outside of a rate  
23 case and be able to take the time to look and determine  
24 what is the best state policy for that type of program  
25 And, finally, in that regard, the

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1 therefore, it is something that most customers expect  
2 to be kept confidential from their competitors, and,  
3 therefore, it is the type of information that they  
4 would generally not make available to others for that  
5 competitive advantage that might be gained and they  
6 have an expectation that we will keep it confidential  
7 as well, which bears into the issue of how that type of  
8 data is kept confidential in this forum. That includes  
9 minimum guidelines. It includes discovery requests  
10 It includes testimony at times before the Authority

11 And then when you look at the industry  
12 from a mergers and acquisition standpoint, that  
13 activity level has increased significantly over the  
14 last ten years. It creates additional issues in rate  
15 cases that need to be analyzed, and, from a state  
16 policy standpoint, that need to be reviewed to  
17 determine what is the best state policy

18 From a consumer standpoint, the  
19 mergers and acquisitions only serve to reduce the  
20 overhead cost of allocating each utility within that  
21 merger or acquisition, and, therefore, is normally,  
22 from a state policy standpoint, something that should  
23 be advocated and something that should be incented  
24 actually. There are costs. There are risks to any  
25 utility merging or acquiring another utility

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1 company recommended in the last rate case as well the  
2 low-income assistance. And, here again, this is an  
3 item that will vary year to year. It will vary from  
4 the attrition year, but there are easy mechanisms to be  
5 able to set up which are I think within the state  
6 policy or should be that will take care of those  
7 fluctuations and act automatically, and we encourage  
8 the Authority to look at doing those types of things  
9 within the overall process

10 If you look at the issue of contested  
11 cases, we have recommended that in every contested case  
12 that early on a procedural schedule be adopted, and we  
13 recommend at least as an initial recommendation that  
14 the parties file a recommended procedural schedule that  
15 the Authority and the staff can then review and provide  
16 for a procedural schedule that people will be able to  
17 set out with some clarity what they believe the  
18 progress of the case will be

19 We do support Mr. Jeffries' idea of  
20 making it clear when the staff is acting in an advisory  
21 versus adversarial role

22 We do differ, however, in certain  
23 aspects. We certainly believe that the Authority can  
24 use its expertise to determine what is the best state  
25 policy within recommendations within the record, but we

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1 So from a utility standpoint, if, in  
2 fact, there were disincentives created by the  
3 traditional regulatory process to that, then you may  
4 not see the number of acquisitions and mergers that  
5 have continued to keep consumers' bills low through the  
6 last ten years, in many cases offsetting not only an  
7 increase in some of the higher priced O&M type expenses  
8 but significantly being able to offset the cost of  
9 healthcare and pension and retirement type expenses as  
10 well

11 I say that to say this, if you look at  
12 process and procedures as it relates to this workshop,  
13 from a high level one of the things that we would  
14 recommend and do in our comments is that if you look at  
15 alternative forms of regulation this Authority has done  
16 so in the telecom arena and we certainly recognize that  
17 in our comments, and there may be opportunity here

18 We cite in our comments the Alabama  
19 Rate Stabilization Program, and, again, from the  
20 standpoint of looking at how expensive and how  
21 inefficient rate cases are, that's a program that's  
22 operated for 22 years in that jurisdiction and operated  
23 very effectively I think for all involved with the  
24 review processes as it relates to the cost of equity  
25 being a much more streamlined process for all the

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1 do believe that the Authority's recommendation needs to  
2 be based on the record. And to the extent that the  
3 advisory staff has recommendations, we believe that  
4 those should be made available prior to a decision by  
5 the Authority so that all the parties can comment on  
6 those recommendations. We think that that process will  
7 solve at least part of this issue about whether or not  
8 there's an Authority recommendation that's not based on  
9 the record evidence

10 And in that regard the procedural  
11 schedule early on can set up a schedule in which the  
12 advisory staff has time to make its recommendation to  
13 the Authority and then a response by the parties prior  
14 to a commission decision, and the time line in the  
15 procedural order should, in fact, provide for that.

16 As it relates to at least the  
17 discussion on whether or not advisory staff's discovery  
18 should be part of the record, first we agree that  
19 advisory staff should be able to propound data requests  
20 or discovery or whatever nomenclature you would like to  
21 use. We do believe, however, the process for the  
22 procedural issue surrounding discovery should be  
23 clearly spelled out in the procedural schedule. So to  
24 the extent advisory staff is going to propound data  
25 requests, then it should be clear to the parties who

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1 they should contact when it relates to a procedural  
2 issue, should there -- as it relates to clarification,  
3 as it relates to a request for -- potential request for  
4 an extension of time so we don't run into this conflict  
5 regarding ex parte communications  
6 As it relates to discovery in the  
7 record it is our view that the better policy when you  
8 look at not only regulatory litigation but any  
9 litigation is that the threshold for discovery be a  
10 fairly minimal threshold. In other words, the  
11 information will be provided if it's reasonably  
12 calculated to lead to admissible evidence. Normally as  
13 it relates to record evidence and, therefore, what a  
14 decision will be based on the threshold should be  
15 higher and parties to the proceeding should have the  
16 opportunity to propound appropriate objections prior to  
17 items just being placed in an administrative record and  
18 decisions being based on those  
19 As it relates to the recommendations,  
20 I would also say that we have that same comment to some  
21 extent related to the audits. We get the factual  
22 findings draft so that the company can respond, but we  
23 have not been getting the conclusions and  
24 recommendations. It is our view that it would be a  
25 more efficient process if we also got on audits the

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1 staff's recommendations and conclusions so that to the  
2 extent that we have a view that they differ from the  
3 evidence or the facts that have been determined we have  
4 the appropriate opportunity to raise those things  
5 before the staff and the Authority  
6 In addition, as it relates to  
7 contested cases we're suggesting -- and this doesn't  
8 have to be a role, it can be a practice. But we are  
9 suggesting that there be some time frame that the  
10 parties have an expectation that once a contested case  
11 is finished and a decision has been rendered that the  
12 parties will see a written order. It just helps  
13 with -- it helps with planning from a company  
14 standpoint. It helps with implementation of the  
15 Authority's directives that there be a written order as  
16 soon as possible, and to the extent that there needs to  
17 be a next step sometimes those are time-sensitive and  
18 clearly parties would like to be able to take those  
19 steps in an expeditious manner  
20 And so, again, whether it's a rule or  
21 just a practice, we would recommend that there be at  
22 least some expectation of when a written order will be  
23 provided  
24 Mr. Jeffries has covered the PGA, and  
25 let me just say again, we support that change. What we

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1 have stated in our comments is that we would support  
2 either elimination or reduction of the 30-day  
3 requirement. We believe that under the volatility that  
4 exists today that the 30 days is far too long, and we  
5 believe that there are enough safeguards regarding the  
6 ability for the actual cost to be audited that in  
7 effect you really could eliminate the requirement, but  
8 at a minimum you could significantly reduce it, and  
9 that's what we advocate here  
10 And I have raised the issue of  
11 proprietary information. Atmos will speak to a greater  
12 extent on this. But in today's environment, as I  
13 stated, this raises an issue in many different types of  
14 proceedings, contested cases where customer data or  
15 third-party-type data is requested. The issue is  
16 there. In a contested case the law is clear that you  
17 can protect it, and, in fact, I think this Authority  
18 has done a good job of doing that.  
19 Now, there is a lag time in getting a  
20 protective order issued, and so this issue does arise  
21 in minimum filing requirements where a utility really  
22 has to wait until a protective order today before they  
23 can file commercially sensitive information, and I will  
24 get to that further when I have my response time to the  
25 CAPD's comments, but, in addition, even in the audit

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1 process when you're auditing third parties today, that  
2 data is very sensitive. There's a question of whether  
3 it's a contested case or not a contested case. There's  
4 been some question by the Authority as to whether or  
5 not that can be protected. We support the comments of  
6 Atmos that it can be, but at bottom all parties have to  
7 know that it's going to be protected and that there's a  
8 process to protect it before filing. And, therefore,  
9 we urge that that be clarified.  
10 Now, the final thing that I will  
11 comment on just briefly are the minimum filing  
12 requirements because that was in the notice that came  
13 out and that was also raised by the CAPD here. We  
14 believe that the voluntary minimum filing requirements  
15 have been working sufficiently well for this Authority  
16 and there's no requirement that they be mandatory.  
17 It is interesting that in those  
18 comments they cite anecdotally just that one case for  
19 the proposition that they somehow now need to be  
20 mandatory. In that case, if you look at what occurred,  
21 there are items within the guidelines that require the  
22 company to provide specific customer information,  
23 historical and projected as to usage, and, in fact,  
24 they state, Tell us your largest customer's history  
25 usage and project the usage. Now, that type of data is

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1 sensitive to the utility and its competitive  
2 marketplace with other energy providers. It is also  
3 very sensitive to the consumers, and, therefore, I  
4 believe there were a handful -- three or four -- of  
5 those questions in which the utility, when they filed,  
6 did not provide that data awaiting a protective order  
7 to be entered in the case to protect the information,  
8 and when that occurred, that data was also provided.  
9 Now, there were about five questions  
10 that didn't apply, and, therefore, the company did not  
11 respond to those that don't apply to Chattanooga Gas.  
12 And if this Authority determined that those guidelines  
13 should be mandatory, then clearly a not applicable  
14 response should be an appropriate and sufficient  
15 response where not applicable is in fact the case. And  
16 in every case for the guidelines those that were  
17 applicable to the company -- they were submitted within  
18 30 days of the filing, and, in fact, if you look at  
19 when the CAPD intervened all the data was here by the  
20 time they intervened. More importantly, the specific  
21 financial witness upon which the case was built,  
22 Mr. Mike Monn's work papers were all submitted with  
23 the guidelines at the time of filing.  
24 So to me that case doesn't stand for  
25 the proposition that you have to have a mandatory

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1 process. What's more is that if you look at the  
2 history of all the cases, I just -- I don't think you  
3 come to the conclusion that it has to be mandatory. If  
4 it is, again, you have to allow for the appropriate  
5 confidential nature of information, and you have to  
6 provide for not applicable as being an appropriate  
7 response as well. Thank you.  
8 MR. COLLIER: Thank you, Mr. Dowdy.  
9 Mr. Dowdy, you covered a lot of territory in a brief  
10 period of time. I have a few questions, and I'm going  
11 to address my questions particularly to the issue of  
12 contested cases and the role of staff.  
13 You did articulate a position that is  
14 different from Nashville Gas in terms of staff's role  
15 and the recommendation process, and it's my  
16 understanding from the written filing and from your  
17 comments today that Chattanooga Gas's position is that  
18 after the record is closed and advisory staff reviews  
19 the record and makes a recommendation to the directors  
20 that any memoranda that is prepared and contains such a  
21 recommendation should be made available to the parties  
22 and the parties should have an opportunity to comment  
23 upon that recommendation. Is that the position?  
24 MR. DOWDY: Yes, Mr. Collier, that is  
25 the position. We do believe that that, one, is the

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1 most efficient way to do it from the standpoint of  
2 allowing the parties -- not just the company but the  
3 parties to respond to any such recommendation so that  
4 the Authority, when they make their final decision,  
5 have in front of them not only the advisory staff's  
6 recommendation but the responses from the parties to  
7 that.  
8 It also provides the opportunity more  
9 efficiently than reconsideration potentially to allow  
10 for any contentions that certain recommendations were  
11 not based on record evidence to be brought to light  
12 prior to a decision. As you know, once a decision is  
13 made the process of reconsideration sometimes is not  
14 one that is structured, and trying to have an issue  
15 like that reviewed is at times difficult and at best  
16 time consuming beyond what it should be or could have  
17 been had it been addressed during the rate case  
18 process.  
19 And what we're suggesting is that in  
20 our view there have been times when the contention can  
21 be made that the recommendation is not on the record,  
22 that the Authority didn't have that view prior to  
23 making their decision, and we believe it's a better  
24 process for the Authority to at least understand that.  
25 They may come to the same conclusion that they did

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1 before, but at least to understand prior to the vote  
2 that at least certain parties have a different view as  
3 to whether a recommendation is based on the record  
4 MR. COLLIER I will take your last  
5 comment first. In terms of a recommendation based on  
6 the record, that would be fleshed out at the time of  
7 the directors' decision, and then the parties have that  
8 opportunity to ask for reconsideration.  
9 MR. DOWDY As it relates to whether  
10 it will be fleshed out at the time of the decision I  
11 guess I'm not clear that that would be the case. If  
12 they don't have before them the fact that their  
13 contentions that certain recommendations in the  
14 advisory staff's memorandum at least in one or two  
15 parties' view may not be on the record, then it may not  
16 be fleshed out at the time of the decision. Now,  
17 clearly, we can bring those contentions and  
18 reconsideration. I'm just suggesting it's a better  
19 process to try to do it up front before the initial  
20 decision is made.  
21 MR. COLLIER But if a party is of the  
22 position that the Authority's decision is not based  
23 upon the record, then the motion for reconsideration is  
24 the vehicle to approach that? Am I correct?  
25 MR. DOWDY That is correct, and

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1 that's the process that, for instance, in Chattanooga  
2 Gas Company rate case that the company just finished  
3 that the company followed. And so that process is  
4 there, and our suggestion is that while that is there  
5 we believe that we can also improve or the Authority  
6 can improve the process even before the decision is  
7 made and that it would be useful information to the  
8 directors to have not only the memorandum from the  
9 advisory staff, but also the responses or potential  
10 responses from the parties to the case prior to making  
11 a decision, and this is done in other jurisdictions  
12 It's not a novel thing or unique thing that we're  
13 recommending here.  
14 MR. COLLIER In those jurisdiction  
15 and you listed those in your comments, is there a role  
16 for advisory staff for the Public Service Commission?  
17 MR. DOWDY In those jurisdictions  
18 there is most frequently a staff that is divided into  
19 adversary and advisory on an ad hoc, case-by-case  
20 basis, and the adversary staff comes up with a  
21 recommendation which is public at the time of all  
22 briefs, and then the advisory staff comes up with a  
23 subsequent recommendation after reviewing all of the  
24 parties', including the advisory staff's, briefs to the  
25 commission, and that memorandum is normally something

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1 that the parties have access to and can raise issues  
2 with if, in fact, they have differing views as to  
3 whether it is legally sound or unfirm or whether it's  
4 based on the record or not on the record  
5 MR. COLLIER So in those  
6 jurisdictions the advisory memorandum or memoranda is  
7 available to the parties prior to the decision?  
8 MR. DOWDY Yes  
9 MR. COLLIER So in those  
10 jurisdictions the commission has the benefit of staff  
11 operating as a party, taking a position, making a  
12 recommendation, and advisory role of other staff and  
13 all of those positions are put on the record?  
14 MR. DOWDY Yes, they are. Yes, they  
15 are. And it raises -- one point that I probably should  
16 bring up right now as it relates to and specifically,  
17 for instance, Georgia where you have a staff that's  
18 divided on an ad hoc basis advisory, adversary, and  
19 even there the rules could be more clear as to who is  
20 adversary and who is advisory on a case-by-case basis,  
21 but it raises an issue which is potentially similar  
22 here on your audits and whether staff should be  
23 identified and be potentially an adverse party or not  
24 in the beginning. I think the main thing to be careful  
25 of is that if there are staff members that participate

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1 in the audit and come to any specific draft conclusions  
2 or recommendations that in a contested case surrounding  
3 that I think it would not be appropriate for those same  
4 staff members to be then serving in an advisory-type  
5 role, and in some jurisdictions that has occurred just  
6 because of the ad hoc nature of how staff is split up  
7 at times  
8 MR. COLLIER That's not the case  
9 here  
10 MR. DOWDY But procedurally that  
11 would be a safeguard that would need to be there  
12 MR. COLLIER So in essence you would  
13 do away with the deliberative process privilege that is  
14 afforded to the advisory staff?  
15 MR. DOWDY I'm not sure that I would  
16 do away with the privilege. The advisory staff is  
17 still able to deliberate with the Authority and discuss  
18 recommendations and provide advice, but at the time  
19 that you are submitting a recommendation to the  
20 Authority, then I think that should be then made public  
21 and the parties to the proceeding allowed the  
22 opportunity to respond.  
23 MR. COLLIER But then how far would  
24 that go? Suppose advisory staff did make available  
25 advisory recommendations, then in a separate meeting

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1 other issues come up and advisory staff takes a  
2 different position? Is that then too to be made  
3 available to the parties?  
4 MR. DOWDY Under that hypothetical,  
5 yes. If they change their recommendation, then yes  
6 that should be made available.  
7 MR. COLLIER So then in essence  
8 everything that is composed of the deliberations  
9 between staff or the meetings between staff and the  
10 directors would be made public?  
11 MR. DOWDY Yes  
12 MR. COLLIER So in essence the  
13 deliberative process privilege would be done away with?  
14 MR. DOWDY At the time that the staff  
15 has come to a conclusion and a recommendation, yes  
16 MR. COLLIER Let's take a ten-minute  
17 break before we start with Atmos. Thank you.  
18 (Recess taken from 11:30 a.m.  
19 to 11:51 a.m.)  
20 MR. COLLIER We'll go back on the  
21 record, and we'll conclude the initial presentations  
22 with Atmos.  
23 Ms. Kelley, if you would proceed.  
24 MS. KELLEY Thank you. I appreciate  
25 the opportunity that you have given us to provide input



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1 today, and on behalf of Atmos I would like to say that  
2 like Chattanooga Gas, in general, we do agree with the  
3 comments of Mr. Jeffries on the issues that he's  
4 addressed earlier today. And I think both he and  
5 Mr. Dowdy have done a good job in covering those  
6 issues, so I won't add anything further.  
7 The one issue that I would like to  
8 address is the subject of the comments that I filed,  
9 and you should have a complete copy of those now. I  
10 apologize for that error. The written comments that I  
11 filed were intended to provide just a brief outline of  
12 some of the legal issues as a starting point for  
13 discussion. I thought it might be beneficial to at  
14 least have the basics in written form. It has been our  
15 experience before, I think as Mr. Jeffries and  
16 Mr. Dowdy alluded to, that we have had some difficulty  
17 in ensuring the confidentiality of information  
18 submitted both in contested cases and in more routine  
19 filings.  
20 Specifically, my experience has been  
21 with the negotiation of special transportation  
22 agreements that then have to be filed with the  
23 Authority for approval. Oftentimes the staff may issue  
24 data requests that ask for highly sensitive financial  
25 information from both Atmos and from the third-party

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1 industrial customer usually that we have negotiated  
2 this agreement with, and, as you can imagine, our  
3 customers are very reticent to submit things like  
4 financial performance information without ensuring that  
5 that can remain confidential. Based on just some  
6 informal discussions with members of staff and legal  
7 staff, I gathered that there was an understanding among  
8 the staff that the protective order could only be  
9 issued in the context of a contested case and that it  
10 was staff's view that because of the Tennessee Open  
11 Records Act that the TRA was unable to issue protective  
12 orders outside the confines of a contested case.  
13 So what I have done in the written  
14 comments is just lay out the procedures -- provisions  
15 of the Tennessee Open Records Act that Atmos believes  
16 would allow the TRA to enact -- to rule through its  
17 rulemaking authority providing for the protection of  
18 confidential information both in contested cases and in  
19 other filings, and as a starting point for discussion  
20 we have given you a copy of the Georgia rule which has  
21 a fairly detailed procedure to protect confidential  
22 information and to allow parties to contest the status  
23 of information as confidential. It also would address  
24 Mr. Dowdy's concerns of eliminating the regulatory lag  
25 time in obtaining protective orders.

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1 Basically the rule is very  
2 self-explanatory, but it would provide that once  
3 information is identified as confidential that  
4 information is protected unless someone contests the  
5 status of the information as confidential, and then  
6 there's a procedure for a hearing to determine whether  
7 the information is protected under state law. And it's  
8 our position based on the case law -- recent case law  
9 has clarified that there is a general exception to the  
10 Tennessee Open Records Act for information otherwise  
11 protected by state law, and there's various sources for  
12 that protection, but the most important of which is the  
13 Trade Secrets Act.  
14 Both Tennessee and Georgia have Trade  
15 Secrets Acts modeled after the Uniform Act and they are  
16 very similar in their definition of what is a trade  
17 secret, and it is our position that the Authority would  
18 be able to protect the confidentiality of information  
19 which is considered a trade secret under Tennessee law,  
20 and most of the information that we have sought to  
21 protect in the past would constitute a trade secret  
22 under Tennessee law. So we have given you the Georgia  
23 rule as a starting point for discussion on a proposal  
24 that we think would be appropriate in this instance.  
25 And I will just relinquish the rest of

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1 my time and answer any specific questions staff may  
2 have.  
3 MR. COLLIER: Ms. Kelley, so your  
4 position would be that the agency could rely upon the  
5 Trade Secrets Act to protect information at the present  
6 time but also to promulgate a rule that would be more  
7 explicit in terms of that protection of confidential  
8 information?  
9 MS. KELLEY: Yes. And the rule, if  
10 it's something similar to the Georgia rule that we've  
11 submitted, would make that protection automatic. If  
12 the party filing the document indicates that it's a  
13 trade secret, then essentially the agency would be  
14 accepting that representation and protecting that  
15 information with the procedure for any interested party  
16 to contest that designation and have a right to a full  
17 hearing to determine whether it is confidential or not.  
18 MR. COLLIER: So that in essence would  
19 do away with the need for a protective order in the  
20 early stages of the case as filed?  
21 MS. KELLEY: Yes, it would.  
22 MR. COLLIER: I haven't had a chance  
23 to read pages 4 and 5 since they were brought to me  
24 this morning. Do those pages contain cases that rely  
25 upon the Trade Secrets Act?

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1 MS. KELLEY: There are no Tennessee  
2 cases that I was able to locate -- any reported cases  
3 relying on the Trade Secrets Act as fitting under the  
4 general exception that's in the Tennessee Open Records  
5 Act. The cases -- and there is a string cite that  
6 starts on page 3 and goes to page 4.  
7 There have been several cases which  
8 expressly confirm that the phrase in the Tennessee Open  
9 Records Act as otherwise provided by state law means as  
10 otherwise provided either by state statute, by case  
11 law, or by rule or regulation, and there are cases that  
12 find that information which is protected under the  
13 Rules of Civil Procedure is an exception to the Open  
14 Records Act, and the authority that the agency would be  
15 relying on is actually more explicit than the Rules of  
16 Civil Procedure. It's very clearly and distinctly set  
17 out in the Trade Secrets Act.  
18 So I think that the authority that the  
19 agency would rely on would actually be even more clear  
20 than the cases that have been relied on. For example,  
21 a protective order issued under Rule 26 of the Rules of  
22 Civil Procedure was found to be excepted from  
23 disclosure under the otherwise provided by state law  
24 exception to the Open Records Act. And there's a list  
25 of all of the cases that I was able to locate on

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1 page 4.  
2 MR. COLLIER: Just by way of  
3 background, in the year 2000 the Authority promulgated  
4 its rules and procedures for contested cases,  
5 Subsections 1, 2, and 3, and in our first attempt to  
6 get those rules through we requested and had in place a  
7 rule that would allow us to designate such information  
8 as confidential and protected and that was rejected by  
9 the Attorney General's office at which time we were  
10 required to move through the process of a contested  
11 case and have the protective order entered as the only  
12 means of which we could protect the information outside  
13 of or as an exception to the Open Records Act.  
14 So we did try that five years ago, and  
15 that's why we've settled upon requiring protective  
16 orders, and that's how our rules specifically apply to  
17 that. Our authority was derived directly from the  
18 Rules of Civil Procedure through the contested case  
19 means.  
20 Certainly I think I can make the  
21 statement that we have an interest in protecting that  
22 information that is confidential that would be harmful  
23 if revealed to the general public -- harmful to the  
24 companies. So we'll certainly look at what you have  
25 provided.

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1 And I would just at this juncture if  
2 any of the parties have anything to add to that  
3 particular issue, I would like to hear from the  
4 parties  
5 MR. DOWDY I would just add, again,  
6 that, one, we support the legal analysis and the belief  
7 that it can be justified. Understanding the history  
8 that you've just raised, Mr. Collier, my recommendation  
9 would be for the Authority and the staff to, again,  
10 seek the Attorney General's guidance as to whether or  
11 not given case law that is developed since 2000 the  
12 Attorney General is of a different view than he was or  
13 she was in 2000 And to the extent that that fails, I  
14 think this is just a critical issue going forward that  
15 at some point the Authority needs to look at the  
16 potential for seeking legislative redress if in fact  
17 this is a hole that cannot be filled from the  
18 standpoint of allowing the Authority to do their job  
19 and allowing the parties that are regulated by the  
20 Authority to protect confidential information.  
21 Thus has emerged to be more of an  
22 issue over the last ten years and I think that trend  
23 will continue, and I do think it's imperative to get  
24 that solved because not every case here, as you know,  
25 is contested, and even the noncontested cases involve

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1 third party or very commercially sensitive data of the  
2 utility  
3 So, again, I would ask if the state of  
4 the case law that has been developed since 2000 changes  
5 the opinion of the Attorney General If not, I would  
6 ask the Authority to look seriously at a proposed  
7 legislative change  
8 MR. COLLIER Thanks  
9 Anyone else?  
10 MR. JEFFRIES Mr. Collier, on behalf  
11 of Nashville Gas Company we would support the position  
12 of Atmos and Chattanooga Gas on this issue I haven't  
13 studied the legal fine points of this issue the way  
14 Ms. Kelley has and can't speak to that, but for I guess  
15 illustrative purposes I would state that North Carolina  
16 has adopted the Uniform Trade Secrets Act, and the  
17 process used by that commission is the designation of  
18 information as a trade secret creates a sort of  
19 presumption that the materials are confidential, and  
20 the procedure is as Ms. Kelley described for Georgia.  
21 Basically what that designation does  
22 is it provides the commission and the commission staff  
23 with the ability to avoid disclosing and the obligation  
24 not to divulge -- or the obligation to avoid disclosing  
25 that information to the public as a result of that

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1 designation, and then there are procedures if someone  
2 challenges that designation to determine whether, in  
3 fact, the information that's so designated is a trade  
4 secret and qualifies for protection.  
5 MR. COLLIER Has North Carolina  
6 promulgated any rules based upon that Act?  
7 MR. JEFFRIES They have not. The Act  
8 allows for a company to designate certain -- and trade  
9 secrets aren't the only type of information, but it's  
10 one of the categories of information that can be  
11 withheld from public disclosure under the North  
12 Carolina version of we call it the Blue Sky Act but  
13 it's the Freedom of Information, and I think Tennessee  
14 has a different name for it, but -- which is the  
15 ability of the citizens to petition for the disclosure  
16 of documents that are held by public agencies, but they  
17 have not adopted any specific rules to deal with that,  
18 and, quite honestly, I'm not aware of a case in which  
19 the designation has been challenged  
20 There are sometimes issues that arise  
21 about if there needs to be disclosure in a hearing  
22 context or something like that in order to preserve the  
23 confidentiality, but it doesn't seem to be a  
24 particularly controversial issue over in North  
25 Carolina

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1 MR. COLLIER We can move into our  
2 responsive time Mr. Jeffries, if you have any  
3 response you would like to make, we'll start with you  
4 MR. JEFFRIES I will be extremely  
5 brief We are basically in agreement with most of the  
6 positions that Atmos and Chattanooga have discussed.  
7 Obviously, Chattanooga has a little bit different  
8 position than we do on the role of the staff I don't  
9 think they are necessarily in conflict.  
10 I think they are -- and we would be  
11 supportive of a solution that was urged by Chattanooga,  
12 although -- or we would be comfortable with that as a  
13 means of helping identify what the various positions  
14 are and potential resolutions of a disputed issue  
15 before the Authority, but that's -- I think the  
16 distinctions between our positions are laid out in our  
17 filings, but other than that -- other than that  
18 difference, we're fully supportive of the proposals  
19 that Chattanooga and Atmos have made  
20 MR. COLLIER Mr. Phillips?  
21 MR. PHILLIPS Just some quick items,  
22 not necessarily addressed in order of importance  
23 Mr. Dowdy always has a way of getting me going, but I'm  
24 going to be brief  
25 MR. COLLIER I'm going to ask you not

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1 to discuss the Chattanooga Gas rate case I think  
2 we've pounded that one enough.  
3 MR. PHILLIPS With respect to  
4 traditional rate cases, the idea that they're expensive  
5 and time consuming, I think that has to be kept in  
6 perspective with the potential impact to consumers  
7 Yeah, we have to spend some money and we have to spend  
8 some time doing it, but I think what we do is  
9 important. I think getting the rates correct is  
10 important to consumers and I think when you compare the  
11 expense that's involved with doing a rate case, the  
12 amount of potential loss to consumers with respect to a  
13 company getting more revenue than it needs, I think  
14 needs to be taken into consideration. And also I  
15 mention that realizing that alternative ratemaking was  
16 not on the list for discussion today I wanted to  
17 point that out.  
18 With respect to the idea about the  
19 guidelines and also in general, you know, different  
20 utilities take different approaches over here, and I'm  
21 not going to mention one particular case, but we as the  
22 Consumer Advocate whenever we get a rate case in we try  
23 to review it. We try to review it in an efficient  
24 manner, and we try to review it with the idea of what  
25 issues do we disagree with with this company, what

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1 issues can we settle and what -- and can we come to an  
2 overall settlement.  
3 Sometimes the settlement of individual  
4 issues gets caught up in the give and take of  
5 settlement discussions, but I think if you look back at  
6 some of the rate cases that have been in front of  
7 this -- this agency in the recent past a lot of them  
8 have been settled Some of them could not be settled,  
9 and those were I guess maybe the more difficult ones,  
10 and there is a correspondence I think or correlation  
11 between how the case was litigated, how the case was  
12 originally filed, and what eventually happened in that  
13 situation.  
14 With respect to some of the procedural  
15 safeguards, I keep talking about the role of the staff,  
16 and I think different states have different  
17 perspectives And what happens sometimes in -- for  
18 instance, in Georgia -- the way they do things in  
19 Georgia is quite different, and I think that one of the  
20 things that you have to keep in mind is that the  
21 statutory framework that we work with here, the rules  
22 and procedures that have developed at this agency  
23 insulate and protect this agency from some of the what  
24 I would consider negative influences that might be  
25 pushed upon them if the framework were different.

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1 And I think if you start out with a  
2 good framework, given the adversarial process that we  
3 do have in a contested case, most of the time you're  
4 going to end up with a good result. Not everyone is  
5 going to be happy. Not everyone is happy in a  
6 settlement. Not everyone is going to be happy when the  
7 directors issue their opinions. Believe it or not, the  
8 Consumer Advocate has not been happy with some of their  
9 decisions, but at the same time I think if you have the  
10 process in place, it gives everyone the opportunity to  
11 proceed through that process and hopefully at the end  
12 we come up with what's right for consumers, what's  
13 right for the utility and what's right for in general  
14 perspective the public interest.  
15 I do have some concern about the idea  
16 that we would approach each piece of material in the  
17 record with respect to how it's presented. Right now  
18 that record is such as it is. If it's just discovery  
19 material, you know, every party has had the opportunity  
20 to look at that information and make a determination of  
21 whether or not it's something that it's important for  
22 us to argue from the perspective, A, that it's  
23 incorrect or, B, that it may be somewhat insufficient  
24 with respect to credibility with respect to the  
25 approach that -- the foundation of the information, and

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1 I think that this agency knows that, considers that.  
2 And it's not a court that we appear  
3 before here. It's an agency, and I think to the extent  
4 that you push it farther into the side of making every  
5 bit of information has to be strictly admissible and  
6 that the questions that staff asks -- sometimes we  
7 don't know what staff is asking or why they have asked  
8 it. A lot of times staff asks very good questions, and  
9 I'm not just pandering to you guys. It's things that  
10 we haven't seen. It's an approach that I think is  
11 important and it does get it into the record, and  
12 everyone knows that they can respond to that. Now, I  
13 understand that -- I addressed earlier the whole idea  
14 about what you've described as the deliberative  
15 process, and I won't dig into that any further.  
16 One last quick comment on the idea  
17 that every end user -- that every end use is  
18 competitive in nature. I can see that although -- I  
19 have gas at home. It would be very hard for me to  
20 switch over to a heat pump at this point. There's an  
21 expense there that has to be factored into that  
22 competition, but overall I think the idea that the  
23 lower the rates consumers pay the more competitive a  
24 gas company is going to be with respect to other uses,  
25 and I think that's important that we keep. As far as

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1 procedurally we keep in place those mechanisms that  
2 allow us to get to the just and reasonable rates that  
3 consumers should pay and that companies have a right  
4 that they do pay. Thank you.  
5 MR. COLLIER: Thank you, Mr. Phillips.  
6 Mr. Dowdy.  
7 MR. DOWDY: Thank you, Mr. Collier.  
8 Just very briefly, let me state again that if the  
9 process was to look at emerging trends and determine  
10 whether or not we should look at and at least discuss  
11 the potential for revising rules and procedures, and I  
12 do think it's a legitimate issue under process and  
13 procedure to look at traditional rate cases and whether  
14 they serve the purpose today that they used to serve in  
15 the past. And I think when you look and you look at  
16 the trends today and how expensive and how many issues  
17 and how complex the issues are, there is room for the  
18 decision from a state policy standpoint that there  
19 should be alternatives to just the standard vanilla  
20 traditional rate case process.  
21 And we have at least presented one of  
22 those in our written comments, and we also talk about  
23 in there the issue of the pipeline safety and the  
24 low-income assistance program as well. All of those  
25 things in some form fall out of a traditional rate

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1 case  
2 In addition, I think it is clear to  
3 anybody that's been involved recently in a rate case  
4 that there are so many issues that if you get to an  
5 issue of state policy on new areas that it is quite  
6 difficult for any party and for the Authority to really  
7 take the time from a deliberative standpoint and to  
8 look at that issue in isolation and determine from a  
9 state policy what should be the view and what should be  
10 the position of the Authority. And so in many cases  
11 those issues just from the standpoint of time and  
12 complexity, in my view, don't get the attention that  
13 they might otherwise have gotten. That's why we  
14 recommend that some of these issues the Authority  
15 should look at have a separate either proceedings or  
16 workshop to look at the merits and state policies  
17 surrounding those issues prior to them being involved  
18 in a contested rate case with a time clock ticking.  
19 In addition, when you look at the  
20 inefficiency and complexity of a rate case and the  
21 expense that also goes to the disadvantage of  
22 consumers, and the consumers pay for that expense. And  
23 the issue really becomes are they better served by that  
24 process, and is that process today accurate in trying  
25 to present a proxy for what the rate should be, and I

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1 would at least suggest that there are cases in which  
2 there is not and there are cases in which the consumer  
3 would be better served by a more progressive view at  
4 least of some of these items than just a traditional  
5 vanilla rate case.  
6 As it relates to the issue of the  
7 advisory staff role, I want to make sure that I don't  
8 overstate, and I don't want to leave the impression  
9 that Georgia, for instance, has a rule that requires  
10 the establishment of advisory and adversary. They  
11 don't. They should have, and that's one of the things  
12 that we suggest there as well and will continue to  
13 recommend, and there is no formal procedure for the  
14 advisory comments to be made public and responses to be  
15 made, but that is the practice and in more cases than  
16 not that is followed and those are made known and  
17 parties can do with those what they choose, but I don't  
18 want to overstate that somehow that is a formalized  
19 process.  
20 And I don't necessarily state here  
21 that it has to be formalized, but I do think that the  
22 process will be more efficient if prior to decision the  
23 parties had the recommendation and could respond  
24 formally to the Authority if they had differing views  
25 and especially in those cases where they at least had

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1 the contention that it was partly not based on the  
2 record.  
3 And I think you get into some due  
4 process issues which could be avoided if the directors  
5 had at the time of their decision everything needed to  
6 make that decision, and I recognize that we have  
7 petitions for reconsideration and we just certainly  
8 went through that process, but I think the practicality  
9 is that once a decision is made by the Authority and it  
10 becomes public there is also some inertia that  
11 surrounds that decision which makes it even more  
12 difficult to change than trying to get the, in our  
13 view, correct decision in the first instance.  
14 So we do recommend that we have a  
15 process of seeing those final conclusions and  
16 recommendations. We don't say that every conversation  
17 between advisory staff and the company -- or I mean and  
18 the Authority should be public and that those  
19 deliberations should be public, but we do state that  
20 when there is a final conclusion and recommendation  
21 formalized into a memorandum that the parties see that.  
22 And then finally let me just state  
23 again as it relates to discovery, I do think it's  
24 important that when you look at procedures that one of  
25 the things we do look at is discovery. I think it is

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1 in every party's interest and it's in the Authority's  
2 interest that there be a free flow of discovery, that  
3 responses be full, that the information be gathered as  
4 people believe they need to gather the information, and  
5 traditionally, not only in commercial litigation, but  
6 in regulatory litigation, the threshold for discovery  
7 is therefore very low. It is the information  
8 reasonably calculated to lead to admissible evidence.  
9 All discovery does not by definition lead to admissible  
10 evidence, but if it was calculated to, then you would  
11 obtain the information.  
12 Normally the standards for  
13 admissibility are higher, and even in a regulatory  
14 proceeding which in many states adopt the rules of  
15 evidence but then provide for an exception where the  
16 commission in its view can look at evidence that might  
17 normally fall out of that, that is in those cases  
18 intended to be a conscious decision that they believe  
19 this evidence that has been offered, while it may not  
20 be of the same level that would normally be admissible  
21 in court, it is of a level that is sufficiently high  
22 that we should have it in the record.  
23 That is different from saying just as  
24 a matter of course that any discovery propounded and  
25 responded to that therefore be made a part of the

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1 REPORTER'S CERTIFICATE  
2 STATE OF TENNESSEE )  
3 COUNTY OF DAVIDSON )  
4 I, Christina M Rhodes, Registered  
5 Professional Reporter, Certified Court Reporter, and  
6 Notary Public for the State of Tennessee, hereby  
7 certify that I reported the foregoing proceedings at  
8 the time and place set forth in the caption thereof,  
9 that the proceedings were stenographically reported by  
10 me, and that the foregoing proceedings constitute a  
11 true and correct transcript of said proceedings to the  
12 best of my ability.  
13 I FURTHER CERTIFY that I am not  
14 related to any of the parties named herein, nor their  
15 counsel, and have no interest, financial or otherwise,  
16 in the outcome or events of this action.  
17 IN WITNESS WHEREOF, I have hereunto  
18 affixed my official signature and seal of office this  
19 20th day of July, 2005  
20  
21  
22 CHRISTINA M RHODES  
23 REGISTERED PROFESSIONAL REPORTER  
24 AND NOTARY PUBLIC FOR THE STATE  
25 OF TENNESSEE  
My Commission Expires  
January 28, 2006

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1 record. And I would urge the Authority to look at in  
2 discovery cases having parties offer which discovery  
3 they intend to make a part of the record and let people  
4 respond to those as opposed to just having the process  
5 be that from day one every time a discovery request is  
6 propounded that you have to be filing your objections  
7 at that point and raising motions and issues before the  
8 Authority.  
9 And I appreciate the staff's time here  
10 today, and I appreciate the Authority setting this up  
11 I think it's a very useful process, and it's certainly  
12 not intended to be in any way a criticism of the staff  
13 or the Authority and is offered only hopefully in the  
14 light to which Director Tate stated, and that is given  
15 the changes in the industry are there things that we  
16 can do as an industry and Authority to improve the  
17 process. Thank you.  
18 MR. COLLIER: Thank you.  
19 Ms. Kelley, anything further?  
20 MS. KELLEY: I don't have anything  
21 further.  
22 MR. COLLIER: First of all, I want to  
23 thank each and every one of you for your excellent  
24 written comments and the oral presentations here today.  
25 They reflect a lot of thoughtfulness on your part.

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1 Certainly they reflect the fact that there are a lot of  
2 issues out there, and we appreciate you bringing them  
3 to our attention and just thoroughly covering the  
4 research and the examples that you presented that  
5 support your positions.  
6 And we're going to be looking at what  
7 you've filed and reading the record from this  
8 proceeding today and making some recommendations, which  
9 will be on the record, and we'll go from there. Maybe  
10 we'll have another workshop forum as well, but, once  
11 again, thanks so much for everything you have done  
12 today.  
13 (Proceeding concluded at  
14 12:21 p.m.)  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

# **TAB 2**

**Transcript of October 5, 2005 Workshop  
On Consumer and Safety Issues**

Page 1

## BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN RE:

GENERIC DOCKET FOR THE PURPOSE OF  
EXAMINING TRA RULES, POLICIES, AND  
PROCEDURES, IN LIGHT OF CURRENT  
TRENDS IN GAS INDUSTRIES

) Docket No.  
) 05-00046  
)  
)

-----  
TRANSCRIPT OF PROCEEDINGS  
Wednesday, October 5, 2005  
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## APPEARANCES:

For Chattanooga Gas:

Mr. L. Craig Dowdy  
Mr. Larry Buie  
Mr. Archie Hickerson  
Ms. Misty Kelley  
Ms. Denise Manning

For Nashville Gas:

Mr. Jim Jeffries  
Mr. Bill Morris  
Mr. Dale Grimes  
Mr. Keith Bissell

For Gas Technology Institute:

For the Gibson County  
Utility District:

Mr. Pat Riley

For Consumer Advocate:

Mr. Timothy Phillips  
Mr. Dan McCormac  
Mr. Glynn Blanton  
Mr. Clifford Swoape

For TRA Staff:

Interested Consumer:

Reported By:

Patricia W. Smith, RPR, CCR

## Page 2

1 (The aforementioned cause came on to  
2 be heard on Wednesday, October 5, 2005, beginning at  
3 approximately 1 30 p.m., before Director Deborah Taylor  
4 Tate, when the following proceedings were had, to-wit )

5  
6 DIRECTOR TATE Good afternoon. Thank  
7 you all for being here today I am joined by the TRA  
8 staff Holly Rachel Smith and Monica Ashford-Smith.

9 My name is Deborah Taylor Tate, and I  
10 am one of the directors at the Tennessee Regulatory  
11 Authority And today we are having one in a continuing  
12 series of workshops, dialogues, conversations between  
13 the TRA, our staff, the gas industry, the Consumer  
14 Advocate and, of course, the public and the consumers  
15 This is pursuant to the Generic Gas Docket, Docket No  
16 05-00046

17 And notice of the meeting was issued  
18 on August 30th, 2005, and those parties who have filed  
19 a written notice by September 21st will, of course, be  
20 given the opportunity to make remarks which we have  
21 suggested be limited to about five minutes on each  
22 issue that was included in the notice

23 Of course, any members of the public  
24 will be given the opportunity to participate as well  
25 So if there's anyone in the audience wishing to

## Page 5

1 this fall, and also the intent to once again hold the  
2 third of these workshops, which will be around asset  
3 management. And certainly the dialogue that  
4 Chattanooga Gas has requested may be included in that  
5 program, although we haven't set the date or the  
6 specifics for that program yet.

7 Obviously, you know, it was my  
8 intention that that be an educational program,  
9 dialogue, conversation, session, with a purely  
10 independent person, whether that's from the world of  
11 academia or from a company, but that would have no  
12 relation to any of the companies that are regulated by  
13 the TRA and would be, therefore, totally independent  
14 So we will be moving forward on that, and, obviously,  
15 you-all will be getting notice when that particular  
16 workshop is set.

17 So I guess because there are so many  
18 of you-all here today, in order to help the court  
19 reporter, if we could just start and go around the  
20 room, at least for those of you-all who are going to be  
21 presenting, and identify yourselves for the record  
22 That would be great

23 Thank you.

24 MR. DOWDY Thank you, Director  
25 Craig Dowdy with McKenna, Long & Aldridge, on behalf of

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1 participate, you can just let us know and come forward,  
2 and we'll make a place for you

3 As you all know, I have been keenly  
4 interested, both from the standpoint of a director here  
5 at the TRA and also as a member of the gas committee at  
6 NARUC, in many of the issues that are facing us, and of  
7 course having had no idea at the time that we opened  
8 this last year what we would all be facing -- you as  
9 companies and all of us as consumers, as well as in our  
10 role as regulators

11 So I think that it's, you know,  
12 absolutely just of the utmost importance that these  
13 dialogues continue between all of us And I appreciate  
14 the fact that at our last conference the industry was  
15 providing us information, and I hope that we will  
16 continue to be discussing these issues as we move  
17 forward at this crucial time

18 As you-all know, we open the  
19 proceeding with a solicitation for comments regarding  
20 our rules and process and procedures be amended to  
21 reflect the current trends in the gas industry And we  
22 also ask for additional comments regarding what types  
23 of forums the industry might suggest that we have And  
24 at that time, as you know, we divided those up into  
25 three main topics

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1 Chattanooga Gas Company And with me today from the  
2 company I have Mr Archie Hickerson and Mr Larry Buie,  
3 and we also have representing the company Mr J W  
4 Luna with us today

5 MR. PHILLIPS Timothy Phillips with  
6 the Consumer Advocate I am here along with Dan  
7 McCormac, who is a regulatory analyst with us

8 MR. GRIMES Dale Grimes, here on  
9 behalf of Gas Technology Institute And with me is  
10 former commissioner Keith Bissell, who is also going  
11 to -- who will present on behalf of GTI

12 DIRECTOR TATE Thank you.

13 MS KELLEY I'm Misty Kelley with  
14 Baker, Donelson, Bearman, Caldwell & Berkowitz, on  
15 behalf of Atmos Energy Corporation. I have with me  
16 today, from the company, Denise Manning.

17 MR. JEFFRIES My name is Jim  
18 Jeffries I'm here on behalf of Nashville Gas Company  
19 today And with me is Mr Bill Morris, who is the  
20 director of financial planning and rates for

21 Nashville's parent company, Piedmont Natural Gas  
22 DIRECTOR TATE Once again, just let  
23 me welcome you-all I'm glad to see you-all here and  
24 look forward to the afternoon

25 As you all know, we had set the agenda

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1 One has already occurred about more of  
2 the legal process and procedures, and then this one  
3 that is, you know, about specific -- other issues that  
4 the industry has noted that they would like to have  
5 discussed, and then also the last one, that has to do  
6 with asset management.

7 So I'm really pleased with all the  
8 exchange of information that has taken place to date,  
9 and I'm sorry that I wasn't able to be with you-all at  
10 the previous one on the legal process issues, but I'll  
11 be interested to see as we move forward what comes out  
12 of that.

13 Today's -- the consumer and safety  
14 issues that we have listed for today's specific meeting  
15 include service quality standards, safety, low-income  
16 assistance programs, research and development, and  
17 conservation and educational efforts, so certainly I'm  
18 looking forward to hearing from each of you-all today

19 I did also want to acknowledge that  
20 Chattanooga Gas had made a request regarding a workshop  
21 or a meeting to address issues relative to the high  
22 price of natural gas And as just one member of the  
23 Authority, you know, I will be recommending to the  
24 Authority that we offer an opportunity for all  
25 participants to provide information as we move forward

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1 and really we thought it might be a little bit easier  
2 to take it by issues And so that's what I have  
3 proposed, in that we would just go ahead and let  
4 you-all, you know, provide about five minutes, as we've  
5 set forth in the agenda.

6 So with that said -- and also I  
7 thought that what we would do is let all the companies  
8 go forward and then GTI and then the Consumer Advocate,  
9 so you-all would have the opportunity to hear everyone,  
10 if that's acceptable to you-all

11 MR. PHILLIPS That's fine Thank  
12 you.

13 DIRECTOR TATE Great. Okay

14 Mr Dowdy

15 MR. DOWDY Thank you very much.

16 On behalf of Chattanooga Gas Company,  
17 under safety, the comments we filed are fairly specific  
18 and to many are not a surprise, because we also raised  
19 this in the last proceeding before the Authority

20 We believe, from a safety standpoint,  
21 one of the largest issues is to address the bare steel  
22 and cast iron pipe issue that Chattanooga Gas Company  
23 has And it is our belief that the most efficient way  
24 to do that is to put forward a tracker mechanism and a  
25 process by which you have a focus on replacement of the

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1 miles of bare steel and cast iron pipe. As you're very  
 2 aware, it's a very capital-intensive process for  
 3 nonrevenue-producing type items. And, therefore,  
 4 without the type of focus that we are suggesting, it  
 5 puts you into multiple rate cases, which we don't  
 6 believe are in the interest of the state of Tennessee  
 7 in terms of taxpayers or our ratepayers in terms of  
 8 paying for multiple proceedings, when there is an  
 9 alternative that can be done much more efficiently. It  
 10 gives your safety staff a better focus on what is being  
 11 done around bare steel and cast iron replacement. It  
 12 also provides a spotlight on what those costs are and  
 13 what those savings are, which are not present if you  
 14 just do it in the normal course of capital improvement.  
 15 And if you look at, I think  
 16 historically, utilities, you will find that without the  
 17 focus that it gets worked into capital, and it may not  
 18 be at the speed which everybody believes is the right  
 19 thing to do. And it also becomes more of a difficult  
 20 thing to audit from a safety standpoint.  
 21 Now, Chattanooga Gas Company has  
 22 familiarity with the program that its sister utility,  
 23 Atlanta Gas Light Company, has been operating for some  
 24 time. That has been working extremely well for the  
 25 state of Georgia and for the ratepayers of Atlanta Gas

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1 Light Company. And it is a program that the Georgia  
 2 Public Service Commission just in June extended. It  
 3 was a ten-year program. They've extended it another  
 4 five years so that the company can put it on a  
 5 fixed-charge basis and coordinate with the City of  
 6 Atlanta and with other areas to make sure that it's  
 7 done in the most efficient way possible. But it is a  
 8 program that's working well. It's one that we  
 9 recommend to the Authority. And it's one that we  
 10 believe is worthy of further discussion in a workshop  
 11 or a proceeding.  
 12 Thank you very much.  
 13 DIRECTOR TATE: Thank you.  
 14 Ms. Kelly  
 15 MS. KELLEY: Thank you, Director Tate.  
 16 Before I begin, I wanted to convey a  
 17 message from Pat Childers. She wanted me to be sure to  
 18 let you know that she apologizes for not being here.  
 19 She had some urgent company business in Dallas, so  
 20 that's where she is. And Ms. Manning has graciously  
 21 agreed to stand in for her today. And between the two  
 22 of us, we hope that we can answer any questions that  
 23 arise. But in the event there's something we don't  
 24 know, we will certainly make sure to get the  
 25 information as quickly as possible.

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1 On the issue of safety, the company  
 2 did not file any specific comments. We have a good  
 3 relationship with the knowledgeable safety people on  
 4 the TRA staff, and we have not encountered any issues  
 5 recently since the relationship is working good and we  
 6 have worked through -- we've been able to cooperate  
 7 with staff and work through any issues that we've had.  
 8 Similar to Chattanooga Gas' parent,  
 9 Atlanta, Atmos does have a pipeline replacement  
 10 surcharge program in Georgia and -- as well as in other  
 11 states. And the company does support the recovery of  
 12 those pipeline replacement costs through a surcharge or  
 13 a tracker mechanism, and we agree with Mr. Dowdy's  
 14 comments about the inefficiency of including those  
 15 costs in frequent rate filings as opposed to a tracker  
 16 or a surcharge.  
 17 And I'll just yield the rest of my  
 18 time for any questions that anybody has.  
 19 DIRECTOR TATE: Thank you.  
 20 Mr. Jeffries  
 21 MR. JEFFRIES: Thank you, Director  
 22 Tate.  
 23 Nashville Gas filed in its status  
 24 report or in its comments, essentially a status report  
 25 on the two activities that it perceives are the most

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1 relevant to the question of safety, and the first is a  
 2 replacement of unprotected steel mains and service  
 3 lines, and the second is the activities it's  
 4 undertaking under the Federal Pipeline Integrity  
 5 Management Regulations that were recently put into  
 6 effect.  
 7 I don't have a lot to add to what's  
 8 reflected in the report, but Mr. Morris has, I believe,  
 9 an update on the main service replacement that he'd  
 10 like to provide.  
 11 MR. MORRIS: Thank you, Jim.  
 12 At the time we filed, we were almost  
 13 completed with our program. I'm happy to announce that  
 14 as of September 22nd, we reported to the Authority that  
 15 we have 100 percent now completed our bare steel and  
 16 cast iron replacement program. That encompassed some  
 17 377 miles on our system, at a cost of just under  
 18 \$62 million, 61,967,000 to be exact. We are very  
 19 pleased that we have completed that program. It's been  
 20 about 15 years now in the doing, and we're happy that  
 21 we can tell Mr. Blanton that that program is now  
 22 successfully complete.  
 23 DIRECTOR TATE: Thank you.  
 24 Mr. Bissell  
 25 MR. BISSELL: Yes.

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1 DIRECTOR KYLE: Citizen Bissell  
 2 MR. BISSELL: Citizen Bissell. Thank  
 3 you, Madam Chairman.  
 4 GTI works with the LDCs on a variety  
 5 of the pipeline and safety issues, replacement of cast  
 6 iron pipe, the lining of certain types of pipes, and  
 7 how to find, for example, plastic pipe when a copper  
 8 tracer wire has corroded. And we work with them across  
 9 the nation in complying with certain federal safety  
 10 requirements. We will continue to do that in those  
 11 states where we are funded.  
 12 DIRECTOR TATE: Thank you. It's nice  
 13 to have you here.  
 14 MR. BISSELL: Thank you.  
 15 DIRECTOR TATE: General  
 16 MR. PHILLIPS: Thank you, Director  
 17 Tate. I don't want to use anyone -- any more of  
 18 anyone's time than is necessary, so I'll try to be  
 19 brief.  
 20 Overall, the Consumer Advocate's all  
 21 for safety and quality of service, conservation,  
 22 consumer education, meaningful research and  
 23 development.  
 24 There have been some side issues, I  
 25 think, raised in this docket which I think, according

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1 to some, are related to those issues.  
 2 We previously submitted a lot of  
 3 material on those, and I don't want to skip topics too  
 4 much, but I'd like for us to -- for you to hear from  
 5 GTI. On the issue of GTI, we've got fairly extensive  
 6 comments in two dockets. The first docket is TRA  
 7 Docket 04-00034. The second one is 03-00313. We are  
 8 more than willing to sit down with whoever to see if  
 9 there is new information that might help us in  
 10 understanding the reasons for that particular funding.  
 11 But as in -- similar to as in safety,  
 12 everyone is for safety, but at the same time it's a  
 13 second question of, "Who pays for it?" And I do want  
 14 to take this opportunity, though, because, you know,  
 15 I'm looking at these comments -- and, of course, we  
 16 knew about this ahead of time, because we had worked  
 17 with Nashville Gas on it.  
 18 The Consumer Advocate is delighted  
 19 that at least one gas utility has made a very real  
 20 effort towards addressing the concern of safety. I  
 21 think Nashville Gas deserves significant praise for its  
 22 efforts.  
 23 All the gas utilities knew that pipe  
 24 replacement was necessary in 1990, however, only  
 25 Nashville Gas has addressed it. In contrast, after



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1 years of refusing to replace pipe as a regular cost of  
 2 being allowed monopoly status, companies like  
 3 Chattanooga Gas here proposes to stick this -- in this  
 4 docket to stick consumers with the price tag  
 5 The Consumer Advocate has squarely  
 6 addressed this idea of a tracker for pipe replacement  
 7 in TRA Docket 04-00034, and at this point we see no  
 8 reason to change our position. They have had it  
 9 several years now. And if you look at that docket,  
 10 what you'll see is a decrease in the -- since 2000 of  
 11 the actual pipe replacement that they have undertaken.  
 12 Thank you.  
 13 DIRECTOR TATE I think Nashville Gas  
 14 might want to get their PR folks down here to quote  
 15 you. That's pretty nice.  
 16 MR. PHILLIPS I have tried to give  
 17 them the praise that they deserve.  
 18 DIRECTOR TATE Find the good and  
 19 praise it -- right? -- as Alex Haley says  
 20 To that point, I mean, Mr. Dowdy, do  
 21 you have anything regarding that -- that replacement  
 22 has reduced or the --  
 23 MR. DOWDY I do have some comments,  
 24 Director Tate, and thank you for the opportunity  
 25 First, when you look at a regulated

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1 think that the example that's been set by the sister  
 2 utility clearly shows that  
 3 Thank you.  
 4 DIRECTOR TATE Let me just also say  
 5 thank you and join in -- I think that's wonderful that  
 6 you-all have accomplished that, and congratulations and  
 7 hope you continue to work with Mr. Blanton going  
 8 forward.  
 9 Okay. Any -- any statements from the  
 10 public regarding the issue of safety? I would welcome  
 11 you-all to come forward -- or from the staff or  
 12 questions from the staff.  
 13 If not, then we will move on to  
 14 research and development, the benefits of natural gas  
 15 research and how it should be funded.  
 16 And once again, I guess we'll just  
 17 start with the parties, if you-all have any statements  
 18 to make. And then I know that -- I'm sure Mr. Bissell  
 19 does.  
 20 MR. DOWDY Thank you, Director Tate.  
 21 On behalf of Chattanooga Gas Company,  
 22 very briefly, we'll defer to GTI for their  
 23 presentation. But we have filed comments here and in  
 24 our last proceeding in support of GTI and what they do  
 25 We do believe it is a benefit to natural gas consumers

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1 entity like those that are represented before you, the  
 2 system is set up so that the cost will be paid by its  
 3 consumers just much like any other business, costs are  
 4 paid by the consumers of that product.  
 5 The difference here is that these  
 6 entities represented before you are regulated, and  
 7 there's a process for doing that and determining how  
 8 those costs will be charged and what that -- what that  
 9 charge is.  
 10 And so a statement that a utility,  
 11 whether Chattanooga Gas or anybody else, is going to,  
 12 quote, stick it to the consumers I think is unfair and  
 13 really musses the point of regulation and American  
 14 business in general.  
 15 But more importantly, the issue here  
 16 is the requirements are to replace. The issue is  
 17 whether it should be on an expedited basis or not. And  
 18 I think if you look at the history, most people started  
 19 focusing primarily on this not in the early '90s, it  
 20 was issues that arose more in the mid-'90s to '96, '98  
 21 time frame, and everybody started addressing it.  
 22 The question becomes, is it more  
 23 efficient to put in the type of capital that is  
 24 required to replace these and have multiple rate cases  
 25 to determine the appropriate charges, or is it more

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1 and to the industry.  
 2 The charge was phased out at the FERC  
 3 level in 2004. We believe it is reasonable to have a  
 4 charge at the state level so that they can continue  
 5 their work. The only thing we suggest in our comments  
 6 is that to the extent there is a surcharge, that it be  
 7 at that previously approved FERC level or not above  
 8 that.  
 9 Thank you.  
 10 DIRECTOR TATE Thank you.  
 11 Ms. Kelley.  
 12 MS. KELLEY Thank you, Director Tate.  
 13 Atmos has a long history of strong  
 14 commitment to the work done by GTI that originates from  
 15 the company's CEO Bob Best, who has a long and close  
 16 relationship with GTI. He and the company believe in  
 17 the benefits of research for all natural gas users, and  
 18 the majority of the benefits do flow through to the  
 19 consumers -- specifically, research into more  
 20 energy-efficient gas appliances. Even though the  
 21 ultimate result of that is that it decreases the  
 22 company's revenues, the company believes that it's in  
 23 the overall interest of all parties to support that  
 24 type of research.  
 25 Because the majority of the benefits

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1 efficient to do it on an expedited basis in which you  
 2 can look at how much pipe you have, determine an  
 3 expedited schedule for that and what the costs are and  
 4 do it without having to charge taxpayers and ratepayers  
 5 for multiple, lengthy rate case proceedings, which is  
 6 what the alternative is. There is no utility and there  
 7 would be no American business replacing this without  
 8 also charging their customers for it. It's a matter of  
 9 efficiency and methodology, and we've got experience  
 10 both ways.  
 11 Here what the company is recommending  
 12 is essentially three times the level of what the  
 13 replacement is in the normal rate case process. And  
 14 when you look at our history, even what we have done  
 15 thus far -- and the Consumer Advocate tried to quote  
 16 some of this in their testimony, and we responded in  
 17 rebuttal -- that in those years where we didn't have a  
 18 tracker, we had multiple rate cases before this  
 19 Authority.  
 20 We don't think that that is in the  
 21 Authority's interest and the taxpayers' interest and  
 22 the ratepayers' interest, and we do believe that an  
 23 accelerated program with a tracker mechanism, where  
 24 you're not in here every year or every two years for a  
 25 six-month proceeding, is the appropriate way to go. We

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1 do flow through to the consumer, Atmos supports the  
 2 recovery of the R&D through -- either in an amount in  
 3 base rates, a surcharge, or a tracker are three  
 4 different methods that Atmos has requested and been  
 5 granted in various states. The company does have a  
 6 policy in each rate case of including their request  
 7 for -- since the discontinuance of the FERC surcharge,  
 8 we have included a request for a GTI in some cases  
 9 surcharge, in some cases an amount in base rates, or a  
 10 tracker mechanism to fund the GTI research.  
 11 DIRECTOR TATE Did you-all file the  
 12 specifics of some of those other mechanisms?  
 13 MS. KELLEY We did not -- I did not  
 14 include that in my comments. I would be glad to get  
 15 that information, if you --  
 16 DIRECTOR TATE Yeah, I think that  
 17 would be really helpful. And I don't know if off the  
 18 top of your head you know any of those specifically,  
 19 but --  
 20 MS. KELLEY I do not off the top of  
 21 my head. We have a rate case pending in Georgia right  
 22 now where we have requested an amount in base rates for  
 23 GTI funding. And we have a surcharge also in Virginia,  
 24 which is a surcharge mechanism. But beyond that, off  
 25 the top of my head, I can't list the states and the

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1 specifics, but I would be glad to provide that  
 2 DIRECTOR TATE That would be helpful  
 3 Thank you.  
 4 And in your Georgia case are you just  
 5 asking for an amount, or is it based on something like  
 6 Mr Dowdy had suggested, not more than what FERC had  
 7 previously --  
 8 MS KELLEY Actually, it's a -- it's  
 9 more -- it's a comprehensive process the way the amount  
 10 was reached. It was based on the projects that Atmos  
 11 had identified, the research projects that Atmos had  
 12 identified would benefit its consumers in Georgia, and  
 13 also on the amount that the FERC surcharge previous  
 14 funding was So it was kind of a bottom-up and  
 15 top-down approach, and the company and GTI came to a  
 16 consensus on what the amount in base rate should be  
 17 DIRECTOR TATE And when you say would  
 18 benefit Georgia consumers, I'm sure the research and  
 19 development would also benefit Tennessee consumers,  
 20 it's not just a project that's Georgia-specific, is it?  
 21 Or is it? I'm asking leading questions  
 22 MS KELLEY There's actually eleven  
 23 separate projects identified Most of them would  
 24 benefit -- are broader than Georgia consumers But  
 25 there was an effort to make sure that the projects

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1 identified for that funding from the state of Georgia  
 2 would also benefit the Georgia consumers  
 3 Georgia has some specific soil issues  
 4 that are unique to the state, and so some of the  
 5 research projects focused on those  
 6 DIRECTOR TATE Great. Thank you.  
 7 Mr Jeffries  
 8 MR. JEFFRIES Thank you, Madam  
 9 Chairman.  
 10 Nashville Gas Company has also been a  
 11 long-time supporter of research and development and  
 12 particularly research and development by GTI and its  
 13 predecessor There's a general consensus in the  
 14 industry that this kind of R&D activity can only be  
 15 effectively and efficiently performed by a coordinated  
 16 effort throughout the industry We support GTI's  
 17 efforts in that respect.  
 18 We have -- we obviously contributed to  
 19 the activities when FERC -- when the FERC surcharge was  
 20 in place, and we have continued to make contributions  
 21 to GTI As a part of our last rate case in Tennessee,  
 22 the company committed and made a contribution to GTI of  
 23 \$200,000  
 24 We have just recently entered into a  
 25 stipulation in North Carolina in a rate case under

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1 which if it's approved we would be contributing  
 2 \$250,000 annually to GTI That contribution under the  
 3 stipulation would be recovered through rates in base  
 4 rates And we would support -- because we believe that  
 5 the customers are the ultimate beneficiaries of this  
 6 activity, we would support recovery of any  
 7 contributions to GTI in Tennessee as well, whether it's  
 8 in base rates I think in our comments we suggested a  
 9 tracker mechanism, but that probably is just in  
 10 recognition of the fact that we don't have any current  
 11 intent to file a rate case in the real near future  
 12 DIRECTOR TATE Mr Bissell  
 13 MR. BISSELL As I have said before,  
 14 I'm here today on behalf of GTI And GTI is indeed  
 15 generally recognized as a premier research institute in  
 16 this country, and we have about 300 engineers and  
 17 scientists who do pure gas-related research.  
 18 And we were previously funded through  
 19 the FERC, a pipeline-collected charge I think it was  
 20 1.74 cents per million BTU Most states fund us in  
 21 that same -- at that same level, although it varies in  
 22 some states Some states do it as a pass-through on  
 23 the cost of gas But by and large, it's usually  
 24 addressed in rate cases or generic proceedings, and  
 25 simply the LDC collects a surcharge that is remitted to

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1 GTI for that state-specific research.  
 2 We propose at GTI a three-tier  
 3 strategy to address both the current situation that  
 4 we're facing in this country on the cost of gas --  
 5 crisis, if you will -- but, more importantly, the  
 6 long-term consideration of the general energy problem  
 7 that our nation faces  
 8 We, as I said, have some 300  
 9 scientists and engineers who do this research. We  
 10 first suggest that we address the supply of natural  
 11 gas The commodity itself consists of about 70 percent  
 12 of the cost of gas And we propose through our  
 13 research to develop more efficient and effective ways  
 14 to go after the very-deep gas and the unconventional  
 15 gas, like the tight sands, Devonian shale, and coalbed  
 16 methane And we've done this successfully before,  
 17 because it is largely technology that grew out of GRI  
 18 research that is being used to develop the coalbed  
 19 methane gas that now makes up 6 percent of the gas that  
 20 we use in this country  
 21 So we've done this before  
 22 successfully We think this kind of research can be  
 23 accomplished with funds that we can get through the  
 24 National Energy Act. And we are very positive about  
 25 that, and we'll provide you some more information as we

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1 develop it.  
 2 Secondly, we realize, as do you, Madam  
 3 Chairman, in initiating this proceeding and others,  
 4 that there are a tremendous number of people in  
 5 Tennessee that live on low incomes, some 429,000 people  
 6 who -- families who have incomes of less than \$15,000 a  
 7 year  
 8 There are 730,000 LIHEAP-eligible  
 9 Tennesseans, and in 2002 we found that only 60,000  
 10 received assistance for heating and 20,000 received  
 11 assistance for cooling  
 12 What we propose to do is reduce the  
 13 price of gas to consumers Now, under the laws of  
 14 supply and demand, if you reduce the demand for gas by  
 15 1 percent, you can reduce the price of gas by  
 16 2.1 percent.  
 17 We propose to do this by developing  
 18 increased-efficiency appliances and equipment. And  
 19 specifically we're looking at combination water  
 20 heater/home heating systems, where in a small premises  
 21 you can both -- you can use the hot water heater and  
 22 the hot water itself to heat a small apartment, home,  
 23 or perhaps mobile home, a tankless water heater that is  
 24 affordable to produce and affordable to operate We  
 25 also have on the market in various places the water

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1 heater/home heating devices, but they're just not  
 2 efficient at this point. We think we can develop them  
 3 much more efficiently to where they would be very, very  
 4 beneficial to the low-income consumer  
 5 We're working on a smart thermostat,  
 6 which is an amazing product Not only can you program  
 7 it to consider a variety of factors in the home, but it  
 8 also is a smart thermostat in that it can detect when  
 9 people are up and about in the home using the home, it  
 10 can be programmed to address a variety of issues --  
 11 again an amazing product that we'll tell you much more  
 12 about  
 13 We can do this We've done it before  
 14 We developed a high-efficiency furnace at GRI many  
 15 years ago And in the last study that we conducted --  
 16 I think it was '86 to '91 -- in that six-year period,  
 17 the benefits that we measured to consumers as compared  
 18 to cost, completely -- the benefits exceeded all of the  
 19 FERC dollars that we received during that six-year  
 20 period in totality for the development of that -- the  
 21 benefits from that one product. So we have done it  
 22 We'll look at other issues to reduce  
 23 the price of gas, like the fundamentals -- patching  
 24 holes and cracks in buildings We'll work with the  
 25 commission and companies on these kind -- how to

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1 address these kinds of issues -- insulation, patching  
 2 up the energy system itself  
 3 Finally, we propose to work with the  
 4 LDCs on developing more efficient equipment and  
 5 processes to help maintain costs and effective --  
 6 cost-effective distribution systems without impairing  
 7 the integrity or safety of the -- and deliverability of  
 8 the gas itself within the networks  
 9 We have done these kinds of projects  
 10 before successfully. We have some 400 products,  
 11 processes, and procedures on the market that we have  
 12 produced. And we can do it again with appropriate  
 13 funding with TRA authorization.  
 14 What is the cost of all this, again?  
 15 I think 1.74 cents per million BTU or 10 cents a month  
 16 per customer, put another way. We think for this kind  
 17 of funding and for our good work that we can produce  
 18 benefits to Tennesseans of 4 to 1, perhaps 8 to 1 over  
 19 the long haul.  
 20 Thank you.  
 21 DIRECTOR TATE: It's really  
 22 interesting to hear about some of the products, because  
 23 I think sometimes we get lost in all the philosophical  
 24 discussions, that we don't really think about what's  
 25 out there. And, you know, I just think about at my

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1 move forward.  
 2 The next issue was service quality  
 3 standards.  
 4 Mr. Dowdy  
 5 MR. DOWDY: Thank you, Director Tate.  
 6 We filed comments on service quality  
 7 standards. And very briefly, we support service  
 8 quality standards where there is a demonstrated need  
 9 for those in a jurisdiction or a state. However, the  
 10 counter to that is if there is no evidence that  
 11 utilities are not doing the job that customers expect  
 12 and desire, then we should not go through the process  
 13 of trying to put in arbitrary service quality  
 14 standards.  
 15 And we say that because we have been  
 16 through the process. It is something that has been in  
 17 vogue now for at least four or five years. Many  
 18 consultants to consumer advocates, many consultants to  
 19 regulatory bodies will quite often suggest this as an  
 20 item. And the process of developing what the service  
 21 quality standards should include, and then once you  
 22 determine what those quality standards should be,  
 23 determining what levels they should be set for is a  
 24 very lengthy and time consuming and expensive process,  
 25 for one.

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1 house our dogs love the fact that all of our water  
 2 heaters are in the basement, so it's toasty warm down  
 3 there. And I just think, you know, what -- that's  
 4 ridiculous. I mean, why do we do things like that?  
 5 But maybe we should invest in all of  
 6 us being able to live in half the square footage that  
 7 we live, so  
 8 Once again, I don't know if there's --  
 9 Well, I'm sorry. General Phillips,  
 10 you're next, before I ask if there is anybody from the  
 11 public.  
 12 MR. PHILLIPS: Thank you. I don't  
 13 have anything to add.  
 14 DIRECTOR TATE: Thank you.  
 15 What -- are there other -- I was just  
 16 trying to think about other countries, how their  
 17 funding mechanisms are. You know, they have been  
 18 dealing with high commodity prices a lot longer than we  
 19 have.  
 20 And I just wondered does GTI have an  
 21 international colleague or brother or sister? Or do  
 22 other countries fund a similar resource or  
 23 MR. BISSELL: I know that other  
 24 countries have gas research operations. Whether or not  
 25 they're as extensive as GTI, I'm not sure. And exactly

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1 But the baseline becomes this, that  
 2 while that is a cost, and that's a cost that ratepayers  
 3 will charge -- that is, the cost of putting those in --  
 4 is an ongoing administrative cost. These quite often  
 5 require either monthly, quarterly, or annual reports.  
 6 There's going to be some type of audit procedure or  
 7 review procedure by your regulatory body and other  
 8 parties. Quite often there's also, along with that,  
 9 contested cases related to it. All of those costs are  
 10 also costs that ratepayers end up paying.  
 11 And then there's the cost of  
 12 performing. And utilities in general can perform to  
 13 whatever level that a regulatory body would like to  
 14 set. So, for example, if the issue is answer time on  
 15 costs, then clearly you can improve that. And quite  
 16 often that's by adding more people or adding better  
 17 equipment. But there's a cost for both of those things  
 18 that ratepayers will pay.  
 19 And so the question becomes there, Do  
 20 ratepayers really want to go from 20 seconds to 15  
 21 seconds on answer time? Is it worth the cost to them?  
 22 Is that an issue that this regulatory body has been  
 23 receiving calls about and complaints about? Is there  
 24 evidence that the utilities are not doing their job on  
 25 answer time in this specific example?

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1 how they're funded, I really don't know that either.  
 2 Ron Edelstein is the regulatory person  
 3 within GTI that typically gives this type of testimony.  
 4 He's appearing before a generic proceeding today in  
 5 Michigan that he committed to do before we were aware  
 6 of this proceeding. And he is just a wealth of  
 7 information on those things. And I think we can file  
 8 that, in addition to some other questions that you have  
 9 raised, late, if we may -- answers to those questions.  
 10 DIRECTOR TATE: Yeah, certainly. I  
 11 mean, I think we're all wanting to learn, you know, all  
 12 we can. And just like safety, research and development  
 13 is, "Who is going to pay for it?"  
 14 It would be -- I would find it  
 15 interesting, though, to see what the other countries  
 16 have done. Is that more of a, you know,  
 17 government-funded-grant type situation, or does  
 18 everyone share in it? So  
 19 MR. BISSELL: Right.  
 20 DIRECTOR TATE: So I would be very  
 21 interested to hear kind of what is going on  
 22 internationally, so  
 23 If there -- is there anyone from the  
 24 public who would like to come forward?  
 25 Seeing none, then I guess we'll just

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1 Another would be, for instance, the  
 2 amount of time on a service call, responding to a  
 3 turn-on or turn-off or responding to a service request.  
 4 There again, the utility can staff up and put in more  
 5 crews, more people, and can have it such that you've  
 6 got people ready to go. You can station people around  
 7 the district so that they're even closer to the  
 8 premises, so that you can ensure that you would make  
 9 the time. But there's a cost that goes along with  
 10 that. And the question becomes, Is the benefit to the  
 11 consumer going, for instance, from three days to a day,  
 12 or three days to two days worth it to the consumer?  
 13 And in the proceedings that I've been  
 14 a part of and that I've seen, that question has really  
 15 never been asked. It's been a proposal by a group or a  
 16 body to look at -- or it's been mandated by a  
 17 legislative body without looking at the cost-benefit  
 18 analysis. And so you end up with ratepayers paying a  
 19 lot of money for a system that'll have to be  
 20 administered on an ongoing basis in which the benefits  
 21 have not been proven and no cost benefit analysis has  
 22 been done.  
 23 And so our suggestion is this, that we  
 24 support service quality standards where there's a  
 25 demonstrated need for utilities to improve in an area.

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1 And by that, we mean where there's evidence that  
 2 consumers are not satisfied with the level of quality  
 3 that they have. But where you set service quality  
 4 standards, they should be set to meet those specific  
 5 needs and those areas of improvement that need to be  
 6 made. And when you look at the level that they should  
 7 be set at, that you look at a cost-benefit type  
 8 analysis to ensure that consumers are not going to be  
 9 paying for something or a level of quality or a level  
 10 of service that's really not something they were  
 11 interested in, needed, or are going to benefit from.  
 12 And obviously, as we would say on any  
 13 of these issues, we would always want that to be  
 14 recognized as well if you do service quality standards  
 15 in any revenue requirement of the company.  
 16 Thank you.  
 17 DIRECTOR TATE: Thank you.  
 18 Ms. Kelley.  
 19 MS KELLEY: Thank you, Director Tate.  
 20 Atmos does not -- unlike Atlanta Gas,  
 21 Atmos does not have experience with the formal service  
 22 quality standards programs in any of the states that it  
 23 operates in. We do have some informational  
 24 requirements in certain states where we share some  
 25 statistics that we keep with the staff and the Consumer

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1 course -- you know, we have a really unique position,  
 2 because when I'm listening to you, of course, I'm  
 3 thinking about telecom and the fact that some companies  
 4 have 900 metrics that they have to monitor and we  
 5 monitor and our staff monitors. And so it's very  
 6 interesting, because I'm very familiar with those  
 7 performance measurement standards and have been very  
 8 involved in that.  
 9 And so I just remember that we had  
 10 this discussion at one of our first consumer affairs  
 11 meetings. And I, at that point in time and based on  
 12 what was in front of us, didn't think that that was  
 13 something that we should move forward on as a  
 14 committee.  
 15 So I'm interested to know if you all  
 16 have any kind of code of conduct or benchmarking that  
 17 you suggest within your own industry.  
 18 MS KELLEY: Atmos does have some  
 19 internal service goals that it maintains. Some are  
 20 formalized company-wide. Some are on a more local  
 21 basis with the operations supervisors in each location.  
 22 Some of the examples are Atmos has an internal goal of  
 23 responding to turn-on requests within 24 hours, and  
 24 that's an internal goal that they've set within the  
 25 company, and that's monitored on a more informal basis.

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1 Advocate.  
 2 We have some statistics that we  
 3 maintain on the customer support center, the call  
 4 center, related to hold times, answer times, things  
 5 like that. We cannot, however, separate that on a  
 6 state-by-state basis. The call center supports  
 7 multiple states, and so we're not able to track where  
 8 the call originates from to separate those statistics  
 9 state by state. But we would be glad to discuss, you  
 10 know, sharing that information with staff or with the  
 11 Consumer Advocate.  
 12 DIRECTOR TATE: And you do that in  
 13 some states already?  
 14 MS KELLEY: We do. In Missouri,  
 15 specifically, we share those call center statistics  
 16 with the staff of the Missouri commission.  
 17 DIRECTOR TATE: Would your call center  
 18 be able to do that? Share those kinds of statistics?  
 19 MR. DOWDY: We can certainly share the  
 20 response times, hold times that we have, yes.  
 21 DIRECTOR TATE: And the same thing,  
 22 probably wouldn't be able to segregate by state but  
 23 just for the call center in general?  
 24 MR. DOWDY: I am not sure whether they  
 25 could segregate by state.

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1 The call center, also we have goals  
 2 for the basics for the call center -- hold times,  
 3 answer times, things like that that the company does  
 4 maintain and strive to reach.  
 5 DIRECTOR TATE: Good. Well, I mean,  
 6 I'm glad to hear that.  
 7 Okay. Now, Mr. Jeffries, sorry. You  
 8 can make your comments, and then if you'll answer my  
 9 questions too.  
 10 MR. JEFFRIES: Certainly. Piedmont,  
 11 or Nashville Gas in this case and then Piedmont in  
 12 general, is not subject to any formal service quality  
 13 standards or reporting requirements in any of the  
 14 states that they conduct business in, which I think is  
 15 the same for Atmos and Chattanooga.  
 16 We do engage in voluntary reporting of  
 17 some service metrics which are detailed in our comments  
 18 to the Consumer Advocate's Division. That was an  
 19 informal agreement between the company and the Consumer  
 20 Advocate's Division, and I believe those reports are  
 21 provided monthly, if I'm not mistaken.  
 22 We -- I have some experience on the  
 23 telecom side as well on some of the service metrics  
 24 that have become all the rage in the last couple of  
 25 years -- not in this state but in North Carolina. And

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1 But on this point I would say that all  
 2 utilities are operating in a view that they are  
 3 managing to make sure that they maintain service  
 4 quality, and so they are looking at the data. And, you  
 5 know, our position is that that is something that they  
 6 are already incented as a business and a community  
 7 participant to do.  
 8 DIRECTOR TATE: Absolutely.  
 9 MR. DOWDY: They are doing. And it's  
 10 not an area that needs to be micromanaged unless there  
 11 are particular examples where it appears that the  
 12 service quality is lacking based on consumer  
 13 complaints.  
 14 DIRECTOR TATE: Mr. Jeffries, I didn't  
 15 mean to jump into your time, but while -- I was just  
 16 kind of -- you can answer these questions as well.  
 17 And I guess my other one is, Do  
 18 you all have some kind of code of conduct that the  
 19 companies have come up with that's just some, you know,  
 20 kind of your own level of what you think is reasonable  
 21 for call times or  
 22 I remember -- the reason I'm asking  
 23 this is I remember this discussion in consumer affairs,  
 24 and it might have been one of my very first meetings  
 25 that I ever went to at NARUC, and I was -- you know, of

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1 I guess -- and this is more of a personal opinion maybe  
 2 than a company opinion, so I think you have to be  
 3 careful about going down that road and establishing  
 4 those.  
 5 I think if there's a need for it, then  
 6 it's certainly something that's worth looking at, but  
 7 it's a complicated process. And I know, for example,  
 8 in my experience in the telecom environment in North  
 9 Carolina is that there was an effort made to establish  
 10 metrics across the board, really to address a couple of  
 11 problems that two -- maybe two companies -- one company  
 12 in particular was having in North Carolina. Most of  
 13 the other companies weren't having those problems.  
 14 That process has gone on for the better part of two  
 15 years, and it's been very difficult because it's been  
 16 very difficult to establish metrics and standards that,  
 17 you know, apply in the same way.  
 18 But what I discovered is that in a lot  
 19 of situations, you know, there was a conceptualization  
 20 of how this particular function would be performed and  
 21 a metric that was attempted to be established to  
 22 measure that, when, in fact, that wasn't how the  
 23 function was actually performed -- or it wasn't  
 24 performed in the same way by every company, which  
 25 created problems, you know, in measuring things that

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1 may or may not have meaning for a particular company  
 2 And so I think it is something that  
 3 has to be undertaken carefully and that there are a lot  
 4 of different factors that play into whether it's a good  
 5 thing or not  
 6 Nashville, and Piedmont as a whole,  
 7 I'm not aware that they have internal benchmarks for  
 8 how fast they answer a phone or how fast they answer a  
 9 service call That doesn't mean we don't have them, it  
 10 just means I'm not aware of them. Mr Morris has  
 11 indicated he's not aware of any  
 12 I think we tend to focus -- there is a  
 13 big focus within the company on customer satisfaction  
 14 We have a very low complaint rate in all of the states  
 15 in which we operate And to my knowledge -- and I  
 16 think I would be in a position to know if there was  
 17 substantial consumer dissatisfaction about the level of  
 18 types of service we provide There does not appear to  
 19 be a significant amount of discontent with the way the  
 20 company pursues its provision of service to its  
 21 customers  
 22 DIRECTOR TATE Thank you.  
 23 Do you-all have any comments that you  
 24 want to make? Mr Bissell or  
 25 MR. BISSELL. No

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1 how things work or don't work -- work well or don't  
 2 work well So I would -- you know, really appreciate  
 3 your insights while we have the opportunity today  
 4 I'm sorry that Dr Roberson, the head  
 5 of the Consumer Affairs Division, isn't here, because  
 6 I -- you know, this is about consumers and how we can  
 7 all work together to try to -- to make their experience  
 8 with your companies as positive as possible  
 9 And I think you-all are right And  
 10 one of the things that, you know, by Ms Kelley saying  
 11 we're trying to, you know, get people their gas within  
 12 24 hours, obviously, as Mr Dowdy says, we're incented  
 13 to do the right thing So in many ways this -- your  
 14 industry does work well in a market sense, even though  
 15 you're regulated and even though that, you know, you're  
 16 monopolies, it has the opportunity to work well  
 17 Okay Is there anyone from the public  
 18 who would like to come forward and speak to this issue?  
 19 I don't see anyone So -- well,  
 20 Mr Dowdy Sorry  
 21 MR. DOWDY Just for dialogue, I did  
 22 want to comment on a couple of things, just so that  
 23 they did not go unsaid  
 24 And that is, the word "monopoly" has  
 25 been brought up many times But the utilities here do

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1 DIRECTOR TATE General Phillips?  
 2 MR. PHILLIPS Briefly Since I've  
 3 gotten the new title of public relations manager for  
 4 Nashville Gas, I do want to thank them again for  
 5 voluntarily coming to meet with us and set some  
 6 reporting measurements that we do receive from them  
 7 faithfully I don't think you're going to see the type  
 8 of doomsday predictions come true with respect to those  
 9 if we were to impose those on the other companies  
 10 And I do want to thank Atmos, because  
 11 I saw in the comments that they submitted that they're  
 12 willing to at least start reporting certain  
 13 measurements  
 14 I mean, I think that's the beginning,  
 15 certainly We've got to find out what the baseline is  
 16 I'm surprised that companies would not have some type  
 17 of -- do something, especially a monopoly company, do  
 18 something that would measure their service quality  
 19 And I think from there we go on to  
 20 decide whether or not certain standards are appropriate  
 21 for all companies, whether or not that's set at certain  
 22 levels for the larger ones versus the smaller ones  
 23 You know, I think that's other issues  
 24 But I think the first step is to do  
 25 exactly what Nashville Gas has done and what Atmos is I

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1 have a business sense, and they do because the fuel  
 2 that they provide is an optional fuel with very limited  
 3 specific circumstances, that being industrial use where  
 4 natural gas is a feedstock. Every use that you can  
 5 think of for natural gas has an alternative fuel,  
 6 electricity, which the consumer is already going to  
 7 have  
 8 And so everybody here is incented from  
 9 a competitive standpoint to make sure that their  
 10 quality of service is what it should be and that they  
 11 are attracting new customers and providing the type of  
 12 service that retains customers to the business  
 13 But when we talk about this issue --  
 14 and, again, it's been in vogue to say you need to  
 15 either have them or look at them, and a lot of it did  
 16 start in the telecommunications industry, but there's  
 17 this sense of proving that there's not a problem. And  
 18 in any jurisdiction it's always easy for parties to  
 19 suggest a standard of reporting, whether it's monthly  
 20 or quarterly or annually, just gather the data, just  
 21 provide it to us, just report it to us And what is  
 22 lost is that all of those come at a cost to the  
 23 ratepayer and to the customer  
 24 And you have to determine instead of  
 25 the approach of let's have the companies take the time

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1 think at least willing to talk about doing, and start  
 2 seeing what now is the baseline with respect to what  
 3 the measurement -- what we can measure And I don't  
 4 think -- I don't think that what we've asked Nashville  
 5 Gas to do and what they've agreed to do is onerous  
 6 They have been able to do it. And certainly, again,  
 7 although I don't want the job at this point, I do  
 8 appreciate their efforts  
 9 DIRECTOR TATE Thank you. It might  
 10 be a pay raise  
 11 MR. PHILLIPS No doubt about that.  
 12 DIRECTOR TATE We are really here to  
 13 have a dialogue And so, you know, I would love for  
 14 you-all to feel comfortable in, you know, having more  
 15 conversation about some of these issues  
 16 But, you know, obviously, we are all  
 17 very interested in the quality of service that's being  
 18 provided to the consumer and also balancing the cost of  
 19 that.  
 20 And so anyway, I just welcome any of  
 21 the -- you know, your examples also from other states,  
 22 whether they're positive for the company or not so  
 23 positive, it's just -- you know, it's good for us to  
 24 hear about what is going on, because you-all, unlike  
 25 us, have the opportunity to be in many states and see

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1 to report all of this to us and then let's develop and  
 2 see after a while if there's a problem, and customers  
 3 paying for that, a better approach is you have ways to  
 4 determine whether there's a problem. You have your  
 5 consumer affairs that get inundated if there's an  
 6 issue The call centers of these utilities get  
 7 inundated if there's an issue The types of complaints  
 8 that they're receiving are tracked, and they address  
 9 them.  
 10 And so a better approach, instead of  
 11 just, "Let's add another report for a utility to  
 12 provide," would be to say, "Where are there issues  
 13 where we can find some evidence that a service quality  
 14 problem exists in the state of Tennessee? And where it  
 15 exists, how is the best way to address that and do a  
 16 cost-benefit analysis to determine the best way to do  
 17 so?"  
 18 Thank you.  
 19 DIRECTOR TATE Thank you. Any  
 20 others?  
 21 MR. PHILLIPS Just quickly  
 22 I understand the comment about  
 23 industrial customers And with respect to my contract  
 24 with Nashville Gas, it's short-term, I understand that  
 25 But for residential customers, that short-term contract

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1 is actually more a function of a longer-term contract,  
 2 which is a definition of the equipment that they have  
 3 in their home. They can't just switch.  
 4 It would be quite expensive for me  
 5 now -- I was tickled when I got to move into my house  
 6 that had gas, because I think it's warmer. But it  
 7 would be expensive for me now to change to a heat pump.  
 8 We don't -- consumers -- residential consumers don't  
 9 have that choice to let their feet do the walking. So  
 10 I think with respect certainly to residential customers  
 11 the term "monopoly" fits quite well.  
 12 MR. DOWDY: And as a dialogue, let me  
 13 just again take some issue with that, and that is that  
 14 in the state of Tennessee we have had issues with  
 15 these -- since electricians are providing to have people  
 16 switch to heat pumps, many have done so. More  
 17 importantly, we have the competitive issue of adding  
 18 customers and retaining customers, one from the switch  
 19 standpoint, but the other is the additions and new  
 20 homes and making sure people want to have natural gas  
 21 in their house.  
 22 And there's no good way for the  
 23 utility to differentiate the service quality it's going  
 24 to provide to an existing customer versus a new  
 25 customer. And so the service quality standards by

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1 Thank you.  
 2 DIRECTOR TATE: Do you know how many  
 3 people, like, for instance, this year -- I know it  
 4 might vary -- but were served in Georgia, how many  
 5 elderly?  
 6 MR. DOWDY: I thought it was in the 20  
 7 to 30 -- but let me check and see if it's in here  
 8 33,000.  
 9 DIRECTOR TATE: Okay. And then while  
 10 we're on this, would you like to make any statements  
 11 regarding LIHEAP?  
 12 MR. DOWDY: We are fully supportive of  
 13 the LIHEAP program. I will say that the recent energy  
 14 policy has changed the level of funding, and our  
 15 suggestion is that the state of Tennessee use all of  
 16 its federal resources to make sure that it gets its  
 17 fair share of that funding.  
 18 In the past, a lot of the southeastern  
 19 states have not gotten, in my view, their share of  
 20 federal funding. And that should be the first effort  
 21 of focus.  
 22 DIRECTOR TATE: Thank you.  
 23 Ms. Kelley  
 24 MS. KELLEY: Thank you, Director Tate.  
 25 I have included in the comments that

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1 these utilities in your state are set at a very good  
 2 level from a business standpoint, and we see no  
 3 evidence that there's a shortfall on service quality  
 4 standards in any area.  
 5 Thank you.  
 6 DIRECTOR TATE: Anything else?  
 7 We'll move on then to low-income  
 8 assistance programs and start again.  
 9 Mr. Dowdy  
 10 MR. DOWDY: Thank you, Director Tate.  
 11 On low-income assistance, we support  
 12 that. We have filed comments. And included in that is  
 13 one of the proposals which we have made previously in  
 14 another docket and agreed to take out and to address  
 15 separately, and that is the company's proposed CARES  
 16 program, which stands for "Chattanooga Assisted Rate  
 17 for Energy Services."  
 18 And that program is aimed at trying to  
 19 assist low-income elderly, those people 65 and older  
 20 that are low income. And we list a number of  
 21 eligibility requirements that make it easy -- to the  
 22 extent that they are already on the list of some of the  
 23 other assisted programs, then they are eligible as  
 24 well. We suggest that there be an eligibility that  
 25 they could get, a certification directly from the

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1 we filed a description of the way that Atmos works with  
 2 low-income assistance agencies, and I won't go over  
 3 those now. But, basically, it falls into two  
 4 categories. One is providing information on those  
 5 agencies to our customers through our website and our  
 6 customer service representatives, and then, secondly,  
 7 working closely with those assistance agencies.  
 8 Once a customer has connected with an  
 9 assistance agency and we get a call that a pledge has  
 10 been made, we make every effort to accommodate the  
 11 agencies which sometimes means processing, you know,  
 12 within a 24-hour period, hundreds of pledges a day,  
 13 suspending disconnect procedures. Sometimes the funds  
 14 come quickly, sometimes it takes a while, so we have to  
 15 renew those pledges. And I've outlined in the comments  
 16 the ways that Atmos works with the agencies to help  
 17 provide the low-income assistance.  
 18 DIRECTOR TATE: Thank you.  
 19 Anything from your perspective on  
 20 LIHEAP or --  
 21 MS. KELLEY: I know that Atmos has  
 22 been active in encouraging a lobby for additional  
 23 funding, additional federal funding.  
 24 DIRECTOR TATE: Thank you.  
 25 MR. JEFFRIES: Madam Chairman,

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1 company or the Authority, if their income is less than  
 2 the 125 percent of federal poverty level.  
 3 This is similar to a program that has  
 4 been in existence by the Atlanta Gas Light Company, one  
 5 of the sister utilities, for some number of years, in  
 6 which they provide essentially a way to cover the base  
 7 charge primarily for low-income elderly -- in this  
 8 case, \$7.50 on the bill. And it's done so by providing  
 9 a tracker or formula mechanism that essentially spreads  
 10 that social cost among all other customers and tries  
 11 that up. This is not, as you would imagine, a known  
 12 and measurable.  
 13 So, for instance, in a rate case this  
 14 is not something that you can identify and set up,  
 15 because the class of participants can vary widely, the  
 16 number of people electing the program can vary widely.  
 17 And so it has been set up, at least in  
 18 Georgia, to be on a tracker mechanism, where however  
 19 many people sign up, whether it's 20,000 or 25,000 or  
 20 35,000, then the actual cost of that program, the  
 21 actual cost of covering that base charge is then spread  
 22 through this formula mechanism to all customers. And  
 23 it has worked quite well, and we suggest that the  
 24 Authority take a look at doing the same thing here to  
 25 assist the low-income elderly.

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1 Nashville, in its comments, has discussed about six or  
 2 seven mechanisms that it's engaged in and attempts to  
 3 either educate or to assist low-income folks on ways to  
 4 manage and reduce and help pay for their natural gas  
 5 bills. And I'm not going to go over each one of those,  
 6 because I think that they're laid out pretty  
 7 straightforwardly in our comments.  
 8 I did have an update under the second  
 9 category that we list on our comments, though, and  
 10 that's a discussion of Project Help, which is a fund  
 11 that's a -- essentially, it's a voluntary fund that's  
 12 administered by the Big Brothers of Nashville, and it's  
 13 designed to assist elderly and disabled customers.  
 14 In our comments we had indicated that  
 15 Nashville will contribute \$12,500 to the Project Help  
 16 fund for 2005-2006, the winter period.  
 17 Last week the company reassessed its  
 18 contributions not just in Tennessee but in all the  
 19 states in which it operates to these kinds of programs.  
 20 And our projection now is that Nashville Gas will  
 21 contribute approximately \$50,000 to that fund to help  
 22 mitigate energy costs for natural gas costs for elderly  
 23 and disabled customers.  
 24 DIRECTOR TATE: Well, I thank you and  
 25 the company and congratulate you all for taking this

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1 step I think, you know, we're at a crucial time  
 2 period So I think that's, you know, wonderful that  
 3 you-all have chosen to do that  
 4 And that's -- that's totally a  
 5 voluntary program?  
 6 MR. JEFFRIES That's correct  
 7 DIRECTOR TATE Okay I know that we  
 8 talked about this a little bit -- well, let me go ahead  
 9 and let the rest of you-all talk I'm sorry  
 10 Mr Bissell  
 11 MR. BISSELL Let me just say that we  
 12 at GTI have the scientists and engineers and the  
 13 technological ability to help identify what low-income  
 14 consumers need to do I have a feeling that the LDCs  
 15 have that same capability And there are a variety of  
 16 things that can be done to assist them I think we  
 17 have 13 5 percent of Tennesseans are in a category of  
 18 those citizens who are classified as -- what is the  
 19 word I'm looking for? Not low-income but -- poverty  
 20 level -- below the national poverty level  
 21 We would be delighted to contribute  
 22 our expertise in whatever way that the LDCs and the TRA  
 23 or other agencies would encourage us to do in the  
 24 development of high-efficiency equipment or doing  
 25 fundamental insulation or patchwork -- not doing it,

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1 DIRECTOR TATE That's wonderful  
 2 That is -- that's just wonderful How long have  
 3 you-all been doing this?  
 4 MR. RILEY We've been doing this  
 5 about five years  
 6 DIRECTOR TATE Wow, that's just  
 7 great  
 8 MR. RILEY We really feel strongly  
 9 about it Being a small community like we live in, we  
 10 know the people very well, and we don't want to see  
 11 anybody suffer either  
 12 DIRECTOR TATE Wonderful Well, we  
 13 welcome you today  
 14 MR. RILEY Thank you.  
 15 DIRECTOR TATE I think I haven't seen  
 16 you since our gas forum, maybe --  
 17 MR. RILEY That's right  
 18 DIRECTOR TATE -- last time So  
 19 we're glad to have you and welcome your participation  
 20 anytime in any of these issues  
 21 MR. RILEY Thank you very much.  
 22 DIRECTOR TATE Sure Thank you. And  
 23 feel free to participate as we go forward  
 24 MR. RILEY Thank you.  
 25 DIRECTOR TATE Certainly

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1 but simply being a resource for providing the  
 2 information about how it could best be done or most  
 3 efficiently be done  
 4 DIRECTOR TATE Thank you.  
 5 General Phillips  
 6 MR. PHILLIPS Thank you.  
 7 We've filed testimony regarding this  
 8 issue in TRA Docket Nos 04-00034 and 03-00313 The  
 9 overall -- I guess to sum up that testimony, at this  
 10 point -- and, of course, we are open to dialogue on the  
 11 issue -- we still think that this is something that  
 12 should remain optional for customers of the utilities  
 13 to contribute to  
 14 DIRECTOR TATE So just like a  
 15 voluntary  
 16 MR. PHILLIPS Yes, ma'am.  
 17 DIRECTOR TATE Is there anyone from  
 18 the public who would like to come forward and discuss  
 19 this issue?  
 20 MR. RILEY My name is Pat Riley I'm  
 21 the general manager of the Gibson County Utility  
 22 District We serve about 10,500 customers in Gibson  
 23 County  
 24 We also support LIHEAP In fact,  
 25 Lamar Alexander's representative, at a function we were

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1 Anyone else from the public? We'd be  
 2 glad to hear from you.  
 3 If not, we'll just move ahead. The  
 4 last item on the agenda was conservation and education.  
 5 We have kind of touched on that peripherally, but I  
 6 would love to hear from you-all specifically about that  
 7 issue as well  
 8 MR. DOWDY Thank you, Director Tate  
 9 Let me also state, just so that the  
 10 record is also complete, since we have brought up some  
 11 of the voluntary programs, we didn't file it, but  
 12 Chattanooga also does the Warm Neighbors Program in  
 13 which they allow their customers to contribute  
 14 voluntarily on the -- in response to their gas bills,  
 15 \$1 up to I think \$10 And the company matches I think  
 16 the first \$10,000 of that, and that's used also for  
 17 heating assistance as well  
 18 DIRECTOR TATE Wonderful Who  
 19 distributes that for you-all?  
 20 MR. DOWDY Let me ask Mr Larry Buie  
 21 to address that.  
 22 DIRECTOR TATE Sure Welcome,  
 23 Mr Buie  
 24 MR. BUIE Thank you, Director  
 25 The program we have had running for a

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1 just at, I strongly recommended to him that any other  
 2 moneys they could put into that, do so  
 3 Obviously, I'm a little nervous  
 4 On a local level where we're at, we  
 5 offer what we call a "We Care Program." It's a  
 6 voluntary program that we wholeheartedly ask our  
 7 customers to support. They can call us We can ask  
 8 them to put anywhere from one to five dollars extra on  
 9 their bill  
 10 In fact, last year we felt so strongly  
 11 about this that we got with the agency in Gibson  
 12 County, went over and did a story, feature story with  
 13 them, and put it in the newsletter that went to all our  
 14 customers and generated some more dollars for the  
 15 program. And those people distribute the dollars We  
 16 don't do that  
 17 But it is a big issue I think we all  
 18 know with the pricing and what's about to take place,  
 19 any additional dollars would be greatly needed  
 20 But that's what we do on a local level  
 21 in Gibson County  
 22 DIRECTOR TATE Do you have any idea  
 23 what you-all were able to collect, like in a year, or  
 24 just off the top of your head?  
 25 MR. RILEY About \$5,000

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1 couple of years now, the proceeds, once they come in,  
 2 we distribute those moneys back through Human Services  
 3 for the two areas That's the Chattanooga area and  
 4 Cleveland, Tennessee We allow those groups to really  
 5 manage the process as far as the application for the  
 6 needy We just make sure that those contributions are  
 7 channeled to the appropriate locations  
 8 DIRECTOR TATE That's wonderful  
 9 Well, let me thank you-all too, and your company, for  
 10 matching that I think that is just an important step  
 11 in showing that you do care, and we encourage you to  
 12 increase that match. So thank you-all  
 13 MR. BUIE Thank you.  
 14 DIRECTOR TATE And thank you,  
 15 Mr Dowdy, for bringing that up  
 16 And now moving on to I guess  
 17 conservation and education, anything you want to --  
 18 MR. DOWDY Thank you, Director Tate  
 19 We support, obviously, conservation,  
 20 and we support educational efforts And I think if you  
 21 look at the trends on natural gas usage, you will see  
 22 that the usage per household has been declining A lot  
 23 of that is based on. (1) conservation measures, (2)  
 24 having higher-efficiency equipment that's in the  
 25 marketplace today that customers are taking the benefit

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1 of And so part of that is taking place  
 2 From an educational standpoint, what  
 3 we filed with you is we communicate with our fuel  
 4 employees and our call center representatives so that  
 5 customers that they see, or if they call in, can get  
 6 information regarding energy assistance and the  
 7 changing natural gas market conditions For instance,  
 8 it would be similar to some of the things that we would  
 9 say today as to what to expect this winter  
 10 We provide a lot of information  
 11 related to energy assistance, weatherization, as well  
 12 as the anticipated changes in the market on the  
 13 website, the company website And we provide a fairly  
 14 routine communication to customers on these matters in  
 15 bill inserts and in newsletters And we believe those  
 16 are very valuable We do think that we should be, as  
 17 an industry, promoting these things and educating  
 18 customers so that they can take advantage of it.  
 19 We are not sure the degree to which  
 20 the TRA wishes to require or mandate such programs  
 21 But we would suggest that there has been in a number of  
 22 jurisdictions throughout the '90s a lot of effort and  
 23 attention put forward in terms of integrated resource  
 24 planning, which had a demand-side component and in  
 25 which you tried to put forward demand-side programs and

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1 revenues  
 2 I wanted to make the Authority aware  
 3 of something that Piedmont is involved in in North  
 4 Carolina that impacts this area. As I mentioned  
 5 previously, we have a stipulation that's been executed  
 6 by all but one active party in Piedmont Natural Gas'  
 7 pending rate case proceeding in North Carolina that  
 8 contains what we filed as a conservation tariff but  
 9 which in the process of negotiation got renamed as a  
 10 customer utilization tariff  
 11 It's driven by the rationale that was  
 12 contained in a white paper that was published by the  
 13 AGA, the American Gas Association, and the Natural  
 14 Resources Defense Council within the last several  
 15 years, which noted in a fair amount of detail the  
 16 conflict -- the inherent conflict that natural gas  
 17 utilities have with respect to the promotion of  
 18 conservation efforts And it's not simply that natural  
 19 gas companies don't want to promote conservation  
 20 because it will hurt their bottom line There is --  
 21 you know, the company and its officers have fiduciary  
 22 obligations to their shareholders that require them to  
 23 look out for the best interests of their shareholders  
 24 But the point of the paper is -- and  
 25 the conclusions that the white paper reached was that

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1 you tracked the cost, and you tried to track the  
 2 benefit And there were various public benefit tests  
 3 and rate impact tests that you looked at to determine  
 4 which programs you would provide Most jurisdictions  
 5 appeared to go away from that  
 6 We're not suggesting that there needs  
 7 to be a formalized program here And our view, at  
 8 least at this point, would be that you encourage the  
 9 utilities to continue to talk about conservation and  
 10 education and the mechanisms that they have available  
 11 and that as we go through rate cases in the future that  
 12 the Authority also recognize that when they're setting  
 13 rates based on a volumetric basis for some number of  
 14 months or years that conservation has an impact on that  
 15 and that that should be part of what is considered in  
 16 the rate case as well  
 17 DIRECTOR TATE Thank you.  
 18 Ms Kelley  
 19 MS KELLEY Atmos agrees with  
 20 Mr Dowdy's comments Conservation is a two-sided  
 21 issue for the companies It does, over time, you know,  
 22 decrease company revenues And nevertheless, Atmos has  
 23 taken voluntary initiative to provide conservation  
 24 education to its customers  
 25 I have outlined in our comments how we

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1 there really needs to be a mechanism or that state  
 2 commissions ought to look at the possibility of putting  
 3 mechanisms in place that cut this linkage between the  
 4 recovery of the company's allowed margin, approved  
 5 margin, and conservation efforts by its customers And  
 6 what this mechanism is, it's included in the  
 7 stipulation in North Carolina, it basically would do  
 8 that.  
 9 As part of the stipulation, the  
 10 company has agreed, and sort of in the spirit of  
 11 putting our money where our mouth is, the company has  
 12 agreed to commit \$250,000 a year toward conservation  
 13 programs to be established in conjunction with the  
 14 public staff of the North Carolina commission, which is  
 15 the consumer advocate, primary consumer advocate in  
 16 North Carolina, if this mechanism gets put in place  
 17 It's -- our proposal was also modeled  
 18 somewhat on a similar mechanism that's been in effect  
 19 for a number of years, and it was recently, as in the  
 20 last two or three months, renewed in Oregon for  
 21 Northwest Natural Gas Company  
 22 And so this is -- we feel like this is  
 23 sort of, I guess, cutting edge stuff for regulation of  
 24 gas companies in the country And we expect to have an  
 25 order out of the North Carolina commission within about

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1 do that, mainly through our website Recently with  
 2 the -- as natural gas prices have risen so sharply  
 3 recently, the company -- in fact, today -- issued the  
 4 second of two news releases to its -- which are posted  
 5 on the website and sent to media outlets, explaining  
 6 where customers can get additional information about  
 7 conservation efforts and explaining how that can help  
 8 minimize the effect they're likely to see of the rising  
 9 natural gas prices  
 10 DIRECTOR TATE Great. Thank you.  
 11 MR. JEFFRIES Madam Chairman, there  
 12 is some discussion in our comments about what Nashville  
 13 Gas does with respect to conservation efforts and  
 14 education efforts with its customers And Mr Morris  
 15 is going to provide a brief update on that in just a  
 16 moment  
 17 But before we -- before I defer to  
 18 him, I wanted to make -- well, first of all, I'd like  
 19 to say the company does support conservation But as  
 20 Mr Dowdy and Ms Kelley identified, there's sort of a  
 21 little bit of an inherent tension there between the  
 22 predominantly volumetric rate structure that the  
 23 company has in place in Tennessee and its ability to  
 24 promote conservation efforts by its customers, because  
 25 of the impact that has on -- ultimately has on

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1 ten days They have indicated that they're going to  
 2 try to get an order for us by October 15th. So we hope  
 3 to have an answer on whether this mechanism is going to  
 4 be approved and to go into effect in the relatively  
 5 near future  
 6 DIRECTOR TATE Interesting Is that  
 7 something that you would be willing to file with us?  
 8 MR. JEFFRIES I'd be happy to share  
 9 what we filed as well as all the sort of backup papers  
 10 And I think there has even been a NARUC -- at least one  
 11 of the committees of NARUC has issued a paper or a  
 12 position statement that's supportive of this type of  
 13 mechanism. But we would be happy to file that with the  
 14 Authority  
 15 DIRECTOR TATE Great Wonderful It  
 16 might be good to have a staff name, just so that, you  
 17 know, our staff could have a conversation with somebody  
 18 directly  
 19 MR. JEFFRIES I can -- I can check  
 20 with the North Carolina staff and see who they want to  
 21 nominate for that purpose  
 22 DIRECTOR TATE Well, and from the  
 23 company  
 24 MR. JEFFRIES True Absolutely  
 25 DIRECTOR TATE That would be great.



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1 Thank you.  
 2 MR. MORRIS Just last week Piedmont  
 3 issued a press release where it said that it was  
 4 partnering with its customers and urging them to  
 5 prepare for the impact this winter of high wholesale  
 6 gas prices In that press release --  
 7 And I'm hoping the commission got a  
 8 copy of this press release If you didn't, I have one  
 9 with me  
 10 DIRECTOR TATE Yes, I did.  
 11 MR. MORRIS We did send one to the  
 12 Consumer Advocate  
 13 But we said that the impact on the  
 14 average residential bill could be as high as \$60 to \$90  
 15 a month this winter And that's based on normal  
 16 weather Obviously, if it's a cold winter, it could be  
 17 an even more dramatic increase than that.  
 18 We directed them -- I'm sorry Excuse  
 19 me We directed them to our website, where we list  
 20 energy conservation tips, and also the website would  
 21 indicate the availability of help through Project Help  
 22 or other low-income assistance funds that are  
 23 available  
 24 We directed them to the 800 number  
 25 that they could call to sign up for our equal payment

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1 have in Georgia, which is similar to the WNA we have in  
 2 Tennessee  
 3 The company's own investigation has  
 4 revealed that we are experiencing a decline in  
 5 revenues, a decline in usage patterns that is not  
 6 solely related to weather And conservation certainly  
 7 is one of the issues that's affecting this More  
 8 efficient houses, as new homes are being built, you  
 9 know, better insulation techniques There's, frankly,  
 10 some question mark, too, there We're not sure why,  
 11 you know, other factors that may be influencing the  
 12 overall decline that both Atmos and the industry at  
 13 large is seeing in the volumetric use by its customers  
 14 And to address that in Georgia, we  
 15 proposed to add some factors to the WNA mechanism that  
 16 will fully decouple volumes from revenues And I think  
 17 that's something that the company would want to pursue  
 18 in other states if the opportunity presents itself  
 19 DIRECTOR TATE Other than Georgia,  
 20 have you-all tried that mechanism elsewhere?  
 21 MS KELLEY We have proposed it in  
 22 Virginia. It was -- that rate case was settled, and  
 23 that was not part of the settlement But other than  
 24 that, we have not This is the first time  
 25 DIRECTOR TATE Are you aware of other

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1 plan, which would spread their bills out evenly  
 2 throughout the year  
 3 We're concerned, obviously, that this  
 4 winter is going to be tough on our customers, and we  
 5 want to let them know what we're doing to partner with  
 6 them.  
 7 A couple of years ago, and we're kind  
 8 of revisiting this this winter, we had pocket cards  
 9 that we gave all of our customer-contact employees,  
 10 that they could have in case they were asked questions  
 11 by our customers We don't expect our employees to be  
 12 the experts on this  
 13 DIRECTOR TATE Right.  
 14 MR. MORRIS Generically, they  
 15 understand the impact. But this is very informative  
 16 information that we give the customer when they ask  
 17 questions of our untrained utility representatives and  
 18 customer-contact people in our district offices I've  
 19 got copies of this I can be happy to leave with you.  
 20 Again, these are in the process of being printed up  
 21 right now for this winter  
 22 In addition, we are in the early  
 23 planning stages for town hall meetings throughout our  
 24 service territory, including Nashville, where there  
 25 will be actual face-to-face contact between company

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1 states that have done this, other companies?  
 2 MS KELLEY I know that our mechanism  
 3 is patterned after a mechanism that another company  
 4 had. I can't remember off the top of my head which  
 5 company that was It may be the Oregon Commission  
 6 mechanism that Mr Jeffries was referencing But it is  
 7 a new, emerging trend It is a cutting-edge  
 8 regulatory --  
 9 DIRECTOR TATE Tool  
 10 MS KELLEY -- movement Yes  
 11 DIRECTOR TATE Mr Jeffries, would  
 12 you know?  
 13 MR. JEFFRIES There are other  
 14 mechanisms out there that have a similar sort of effect  
 15 that aren't necessarily -- they weren't necessarily  
 16 implemented for the purpose of conservation and  
 17 promoting conservation.  
 18 For example, there was legislation  
 19 enacted in South Carolina last year that allows for  
 20 essentially a refresher of the elements of -- the rate  
 21 base elements that control Piedmont's rates in South  
 22 Carolina. And as a practical matter, because all of  
 23 those are updated on an annual basis, this sort of, you  
 24 know, declining margin recovery that results over time  
 25 is taken care of by that That's a much larger, more

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1 representatives and our customers in discussing what's  
 2 available for low-income assistance and what we can do  
 3 to help  
 4 DIRECTOR TATE Thank you. That's  
 5 outstanding. You-all are doing the employee cards --  
 6 isn't that what somebody told us at our last meeting?  
 7 As well? So that  
 8 MS MANNING We have a truck pad that  
 9 service techs have in their truck, they can tear it  
 10 off, and it has that information and energy assistance  
 11 agency information on the back with phone numbers  
 12 DIRECTOR TATE Wonderful I thought  
 13 that I had heard that So that's great.  
 14 MS KELLEY And to add to  
 15 Mr Jeffries' comments about the inherent disincentive  
 16 that is present for gas companies, as long as our rates  
 17 are volumetric-based, to encourage conservation --  
 18 prompted in part by the movement within the industry  
 19 from NARUC and the AGA and some other commissions, in  
 20 our Georgia rate case -- in Atmos' Georgia rate case  
 21 that is pending currently, we have requested what we  
 22 call a decoupler, which is a mechanism to break that  
 23 link between volumetric measures and revenues  
 24 And the mechanism that we have  
 25 proposed in Georgia is an addition to the WNA that we

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1 significant sort of change than the specific  
 2 conservation type tariff that we're talking about  
 3 today But it has, you know, in large part, the same  
 4 sort of effect  
 5 I think there is also -- and I can't  
 6 remember if it's in Alabama or Mississippi But I  
 7 think there's a similar sort of more global rate  
 8 refresher mechanism that's been in effect for quite a  
 9 number of years down -- and I could find out which  
 10 company it is It just escapes me at the moment --  
 11 that I think would have the same sort of mechanism.  
 12 I did want to add one thing to what  
 13 Ms Kelley said I haven't looked at Atmos' proposal  
 14 in Georgia, and I don't know how it's structured The  
 15 way our North Carolina mechanism is structured, though,  
 16 it's actually -- one of the benefits that I think most  
 17 people feel it has, that favor it, which is most of the  
 18 active parties in the case, is that it actually  
 19 eliminates the weather normalization adjustment from --  
 20 so one of the things we're doing in implementing that,  
 21 assuming it's approved, is that the WNA actually goes  
 22 away Because there's no reason to -- to --  
 23 DIRECTOR TATE To track the weather  
 24 MR. JEFFRIES Right. Exactly  
 25 DIRECTOR TATE Interesting. That's

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1 very interesting  
 2 MR. DOWDY Director Tate, just  
 3 again --  
 4 DIRECTOR TATE Yes  
 5 MR. DOWDY -- for completeness of the  
 6 record, we have restructured in Georgia. And so it is  
 7 not exactly the same, but on this point it is, since  
 8 this doesn't involve the PGA.  
 9 But as it relates to the other parts  
 10 of the distribution company, those are decoupled in  
 11 Georgia for Atlanta Gas Light Company, and they do it  
 12 on the basis of a dedicated design day contribution by  
 13 each home, which is not a volumetric design  
 14 DIRECTOR TATE So snapshot?  
 15 MR. DOWDY It looks at the equipment  
 16 and the usage for that equipment, contribution to the  
 17 design day, and then it allocates the cost out over  
 18 that for each customer And so it can change to the  
 19 extent that customers change their equipment or their  
 20 usage pattern. Those factors can change their  
 21 contribution factor for the coming year  
 22 DIRECTOR TATE How recently did that  
 23 go into effect?  
 24 MR. DOWDY 1998  
 25 DIRECTOR TATE Okay So that's been

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1 this has been helpful  
 2 At the same time, I think you've  
 3 probably gotten a flavor that this dialogue doesn't  
 4 come without some contests and without some disputes  
 5 Some of the proposals you have heard about haven't come  
 6 without some controversies  
 7 And to the extent that you do start  
 8 looking at where you go from here and what information  
 9 you're getting from, say, Piedmont, with respect to  
 10 their proposals elsewhere, you do have issues about  
 11 contested case matters and ex parte -- ex parte  
 12 information  
 13 I would suggest, of course, that  
 14 General Counsel be involved with respect to those -- I  
 15 guess that transfer of communication. I think that  
 16 would be helpful  
 17 DIRECTOR TATE Certainly So noted  
 18 And we will just try to continue the  
 19 dialogue without stepping on any of those issues that  
 20 are involved in another docket  
 21 I had just a couple of I guess kind of  
 22 questions that I just wanted to throw out.  
 23 One was discussed the other day and  
 24 Mr. Jeffries, I think, or someone may have just touched  
 25 on it again. And that is -- or maybe, Ms. Kelley, it

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1 in effect for a while  
 2 MR. DOWDY Yes  
 3 DIRECTOR TATE Okay  
 4 MR. DOWDY And those factors are  
 5 reviewed every year for the household. So, again, if  
 6 you have had conservation, if you have changed your  
 7 usage pattern, if you changed equivalent, then you're  
 8 adjusted the next year going forward, in terms of what  
 9 your contribution to the design day facilities are  
 10 DIRECTOR TATE Annually  
 11 MR. DOWDY Right.  
 12 DIRECTOR TATE So then if there's  
 13 still this -- there's still not --  
 14 MR. DOWDY In our case, we don't have  
 15 weather normalization, we don't need it, because this  
 16 is not on a weather basis  
 17 But -- and, again, from a commodity  
 18 standpoint, that is done by marketers in the state of  
 19 Georgia, and so we don't have a PGA either for us But  
 20 ours is primarily a charge that is fixed based on how  
 21 you're going to contribute to the design day, that can  
 22 vary by volume, and it's charged at the beginning of  
 23 the month. And there are only a few items that vary by  
 24 usage, and that is charged in arrears But the  
 25 majority of the costs are charged up front. And,

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1 was you, talking about termination and cutoffs  
 2 And, you know, again, as we move  
 3 forward, the TRA at our most recent conference had  
 4 quite a few questions about this And just today I'd  
 5 like to know if you-all are contemplating what your --  
 6 what your standard is right now, what your policy is  
 7 And then are you-all contemplating the possibility of  
 8 considering some type of perhaps extraordinary policy,  
 9 just given where we are right now and where we think  
 10 things are going? And I would encourage you to do  
 11 that.  
 12 I think often, you know, when an  
 13 industry can come forward with some kind of voluntary  
 14 code or voluntary suggestion, whether it's all together  
 15 as an industry or whether it's individual companies, I  
 16 think that, you know, sometimes that can work well for  
 17 everybody and certainly for your own customers  
 18 So I just wondered if you-all are  
 19 familiar enough to be able to answer -- and, Mr. Buie,  
 20 maybe it's you -- about your particular rules about  
 21 termination and cutoff and are you-all having  
 22 additional conversations?  
 23 MR. BUIE Thank you, Director Tate  
 24 We are engaged in conversation about  
 25 this winter The winter of 2000-2001 was a time that

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1 therefore, in, for instance, a traditional rate case  
 2 analysis --  
 3 DIRECTOR TATE Right, right  
 4 MR. DOWDY -- the lead lag component  
 5 is a lot less in terms of what customers have to pay  
 6 DIRECTOR TATE And so then when  
 7 you're saying annually, then is there some kind of  
 8 true-up, true-down?  
 9 MR. DOWDY Annually, it is adjusted  
 10 going forward for the next year The company goes  
 11 through an analysis to look at every DDDC factor for  
 12 every customer, determines what that should be going  
 13 forward, the commission staff in that state reviews  
 14 that and determines whether they agree or not, and then  
 15 that's put forward to the commission to approve  
 16 DIRECTOR TATE Great.  
 17 Thank you-all  
 18 Mr. Bussell, do you have anything?  
 19 MR. BISSELL No  
 20 DIRECTOR TATE General Phillips?  
 21 MR. PHILLIPS Yes, briefly  
 22 With respect to some of the new ideas  
 23 that have been presented here at the end of the  
 24 conversation, Director Tate, I know you're looking for  
 25 a dialogue And I think to a certain extent, hopefully

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1 we got together and made a decision to discontinue  
 2 shut-off for nonpay during a certain period of time in  
 3 light of the high bill, the high gas costs We have  
 4 not made a decision at this time, but we are in  
 5 conversation about that, anticipating pretty much the  
 6 same happening this winter  
 7 DIRECTOR TATE Do you remember what  
 8 time period that was?  
 9 MR. BUIE No, offhand I don't recall  
 10 I do recall it was late -- well, the latter part of the  
 11 year into the winter, say late December, going into  
 12 maybe February or March.  
 13 DIRECTOR TATE Okay More than 30  
 14 days, for instance  
 15 MR. BUIE Yes, I would think more  
 16 than 30 days on that. But, again, I'm not real certain  
 17 of the time frame  
 18 DIRECTOR TATE Right. I understand.  
 19 MR. BUIE But I do realize it was in  
 20 the highest bill paying time  
 21 MR. DOWDY Director Tate, if I could  
 22 just add to that  
 23 DIRECTOR TATE Yes  
 24 MR. DOWDY This is the type of thing  
 25 that we're suggesting that we as a group have a

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1 workshop and talk about and see what types of things  
2 need to be done, you mentioned at the beginning.  
3 The company has provided a letter to  
4 the Authority suggesting that there be a workshop to  
5 look at the impact of high prices, that it have  
6 industry participants, that the regulatory staff  
7 participate. We have offered to bring in a consultant  
8 to talk about the demand and supply issues, both  
9 short-term and long-term, and to then have workshops on  
10 specific items related to the impact on customers and  
11 what can be done to the issue of diversity of supply  
12 and hedging strategies that might take place as well,  
13 and the issue of demand destruction that goes with high  
14 prices.  
15 This is the type of thing that I think  
16 also would be discussed. We need to talk about impact  
17 on customers and what can be done and what should be  
18 done this winter.  
19 And our suggestion was, obviously,  
20 that we try to meet as soon as possible. While this  
21 workshop is designed to look at short-term  
22 opportunities to address it as well as medium- and  
23 long-term, clearly, if we want to have a short-term  
24 effect, we've got to start that process. And we had  
25 suggested the first or second week in November.

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1 DIRECTOR TATE Thank you. Thank  
2 you-all for that.  
3 And, you know, I guess I just can't  
4 encourage you enough -- you-all are here sometimes when  
5 I try to talk to the telecom companies and say, you  
6 know, I really wish you-all would come up with some  
7 agreements on your own.  
8 So I strongly suggest you-all, whether  
9 it's as a group, as an industry, or as individual  
10 companies, to take the message back. You know, we are  
11 concerned. I know my colleagues in other states are  
12 concerned. And so I just can't encourage you-all  
13 enough.  
14 I'm glad to hear that conversations  
15 are starting, but, you know, we're moving through the  
16 fall quickly.  
17 Mr. Riley, did you want to add to  
18 that?  
19 MR. RILEY Yes, Director. And thank  
20 you again for allowing me to speak.  
21 At our company, once the meter is  
22 read, 6 days later the bills go out. They have 20 days  
23 to pay the due date on the bill, and then by the due  
24 date they get 10 other days additionally after that to  
25 get the payment in. So that's almost 36 days to get

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1 that accomplished. We, too, have those conversations  
2 Again, in 2000-2001 when it was so  
3 very cold, we found ourselves forced in a faster  
4 fashion than maybe we are today, to where we did work  
5 with a lot of folks at that time. We would try to take  
6 personal payments and work with these people. Again,  
7 we didn't want them to have to suffer.  
8 Also, we have a standing rule, a  
9 guideline in the company that if it's below 32 degrees  
10 we will not turn anybody off, especially if it's  
11 sustained cold weather.  
12 And that's pretty much what we do from  
13 the standpoint of collecting revenue. I don't know if  
14 we could go much further than that, but we will work  
15 with people when we can. So I bring that to the table.  
16 DIRECTOR TATE Thank you.  
17 MR. RILEY Could I just add one more  
18 thing? Talking about conservation -- and we're real  
19 proud of this at Gibson County. One of the things we  
20 do there, along with the web page with energy-saving  
21 tips and energy-saving tips on the front counter, and  
22 we had some newspaper articles that came out recently  
23 encouraging people to conserve, that that is the rule  
24 of the day.  
25 One thing that we implemented three

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1 years ago was an energy audit. We sent a team of men  
2 to a school in Kansas City, and we perform a full  
3 energy audit for our customers for free. We would send  
4 them into the home. We have a thermal imaging camera.  
5 We do a complete survey of the home. Once we have that  
6 done, we put all the data into a program. That spits  
7 out the information that they would need as far as more  
8 insulation, any other kind of energy-saving tips they  
9 could use. It's all on a graph form, a pie chart form.  
10 We take a picture of their house, put it on the front  
11 cover, put it in a nice, neat thing and give it to them  
12 for free. And that just shows you how serious we are  
13 about trying to help them out.  
14 DIRECTOR TATE That is great. Would  
15 you like to come to 3433 Hampton Avenue?  
16 MR. RILEY We might be able to work  
17 that out.  
18 Thank you.  
19 DIRECTOR TATE Thank you.  
20 Yes, sir.  
21 Please introduce yourself for the  
22 record.  
23 MR. SWOAPE Thank you, Director Tate.  
24 My name is Clifford Slope. I am -- I feel it only fair  
25 to say I'm manager of safety and training for Middle

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1 Tennessee Natural Gas Utility District. With that  
2 said, I would like it also noted that I am not speaking  
3 on behalf of my company today. I am here as an  
4 informed ratepayer who felt obliged to do so on the  
5 issues of energy conservation and efficiency.  
6 All too often -- and I apologize, I'm  
7 less apt at this than Mr. Riley is, so  
8 DIRECTOR TATE No, we're glad to have  
9 you.  
10 MR. SWOAPE All too often when you  
11 talk about energy conservation, efficiency is used  
12 interchangeably. And one basic flaw in the current  
13 United States' look at energy efficiency is that when  
14 you look at it, you look at it at the end-use level.  
15 And as such, the electric company is able to get on  
16 television with commercials -- and I'm disparaging no  
17 one here. I mean, statistics can be used to do  
18 whatever you want with them. But they're able to say  
19 that their appliances are more efficient than the  
20 natural gas, which is true at the end use. Their  
21 products are usually 90-plus efficient across the  
22 board, whereas natural gas is anywhere from 60 to  
23 90 percent efficient at end use.  
24 However, if you look at the broad  
25 picture of energy use, what you see is that from the

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1 point of production, from natural gas being gathered  
2 and transported to the end user, versus electricity  
3 being manufactured and produced, natural gas is a far  
4 more efficient fuel. And what the natural gas industry  
5 is seeing right now is an alarming trend towards the  
6 production of electricity using natural gas, primarily  
7 in the summer, to help offset their peak demand hours.  
8 What that's doing with the way the  
9 current energy efficiency standards are done is driving  
10 up the cost of natural gas. It's one of the primary  
11 sources of the current rises in natural gas rates. And  
12 with this energy crunch, everyone looking towards  
13 efficiency and conservation, one of the things that  
14 alarms me as a ratepayer who is informed of the way  
15 this operation works is that what you see is a trend  
16 towards making things more efficient, which is great, I  
17 have no problem with that.  
18 But looking at the water heater that  
19 you said as an example earlier, a natural gas water  
20 heater, the efficiency standards on all water heaters  
21 have been raised over the last two to three decades.  
22 Natural gas water heaters are right now pretty much at  
23 their peak efficiency without a major change. They've  
24 got about as much insulation as you can put on them.  
25 They're manufactured about as well as they can be

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1 The next step to make a natural gas  
2 water heater more efficient is to put an electronic  
3 ignition on it, which means you do away with that  
4 standing pilot light, which sounds fine, you save that  
5 much energy on water heaters and on the surface that  
6 sounds great  
7 But what truly happens there is that  
8 pilot helps keep the vent operating well It keeps it  
9 warm and makes the appliance installation possible,  
10 whereas when you take that heat away from that standing  
11 pilot, what you end up with is a more costly  
12 installation and a lot of times installations that will  
13 not work at all because of the configuration of the  
14 vent and the way that things are done You end up  
15 having to run electricity to a water heater You end  
16 up with a water heater that when the power went out  
17 would work and keep hot water in that home, versus now  
18 when the electric grid goes down that water heater no  
19 longer operates, just like we see with the furnaces and  
20 the ranges once the pilot lights were placed on them.  
21 What you also don't see is the fact  
22 that if you look at the grand scheme of things from the  
23 point of delivery to the point of use, that natural gas  
24 water heater is already more efficient than that  
25 electric Because what doesn't factor in is that 33

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1 percent efficiency rating at that power plant. They're  
2 taking our natural gas, burning it to heat water to  
3 make electricity, and then using the profits from the  
4 sale of that electricity to advertise saying that their  
5 product is more efficient than our water heater, which  
6 I recently used in a presentation and termed it  
7 "insanity"  
8 And I would appreciate anything that  
9 anyone could do to help the people that make these  
10 policies realize that this is not the way for this  
11 country to go  
12 Natural gas is a wonderful fuel  
13 Electric is a wonderful fuel And as many -- you know,  
14 I don't want to do without electricity I love natural  
15 gas, but I love that electricity too And I want to --  
16 I want my air conditioner to work in the summer, the  
17 same as everyone else's However, the electric grid in  
18 the United States right now cannot handle all of the  
19 natural gas customers  
20 If the prices continue to go up and  
21 you continue to see gas customers switching over to  
22 electric, what's going to happen is that you're going  
23 to see more and more brown-outs, more and more  
24 black-outs The grid's just not set up to handle it  
25 currently

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1 And to me as an American, I think it's  
2 important that everyone look at this issue -- the whole  
3 issue -- and see that what you really need to do is  
4 take a basic change in the way that you're approaching  
5 these things Because we're wasting some really good  
6 long-term energy sources right now to produce something  
7 that's a little less efficient  
8 Thank you for your time  
9 DIRECTOR TATE Thank you. It's great  
10 to see someone who is passionate Maybe we should send  
11 you to Capitol Hill  
12 MR. SWOAPE I'll talk to anyone who  
13 will listen.  
14 DIRECTOR TATE Thank you for being  
15 here  
16 Let's see Ms Kelley  
17 MS KELLEY Yes I wanted to respond  
18 to your question about the disconnect policy  
19 DIRECTOR TATE Yes  
20 MS KELLEY And Atmos in the winter  
21 of 2000-2001 did suspend disconnects for a period of  
22 time during the coldest part of that, like Atlanta did  
23 We are -- the company is also  
24 currently in discussions about disconnect policy for  
25 this winter And one additional thing that the company

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1 has is an internal rule that's not part of the tariffs,  
2 but we do follow the 32-degree rule too So we don't  
3 turn -- we don't do any disconnects if the whether is  
4 32 degrees or below And that's something that we  
5 voluntarily do currently  
6 DIRECTOR TATE Great. Thank you for  
7 that  
8 Mr Jeffries  
9 MR. JEFFRIES I'm going to defer to  
10 Mr Morris on this one  
11 DIRECTOR TATE Mr Morris  
12 MR. MORRIS I'm just going to have to  
13 repeat everything that's already been said. We're in  
14 discussions I'm not part of those discussions -- have  
15 not been yet -- probably will be  
16 We do -- we have offered deferred  
17 payments in the past. I'm sure that'll be a repeat  
18 this year  
19 Like the other companies, we do not  
20 turn off if the temperature during the daytime is below  
21 32 degrees If there's a doctor's certificate on file,  
22 likewise, we don't disconnect that residence  
23 I don't know what I could add other  
24 than that It is a concern, and it's being discussed  
25 currently with the company

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1 DIRECTOR TATE Thank you. Well, we  
2 would welcome when you-all get to the point of wanting  
3 to provide us with that information. And I just would  
4 urge you-all to consider taking a voluntary approach to  
5 it.  
6 Thank you-all for being here so much.  
7 Mr Bissell or General Phillips, did  
8 you-all have anything to add for any questions you want  
9 to ask about that?  
10 MR. BISSELL. (Moves head from side to  
11 side )  
12 MR. PHILLIPS (Moves head from side  
13 to side )  
14 DIRECTOR TATE I had one other thing  
15 I just wanted -- I guess two other things I wanted to  
16 ask you-all about very quickly I know everybody wants  
17 to get out in this beautiful day  
18 One is, as you-all know, Tennessee was  
19 the first state to go ahead and pull the 800 number  
20 back so that we could have the free call for the  
21 call-before-you-dig And I'm just wondering if you-all  
22 have anything to add about that or anything going on  
23 from your perspective that you might want to -- you may  
24 not.  
25 That's fine I just wondered if any

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1 of you-all were involved in that.  
2 And then also, you know, I have been  
3 involved in this excess flow valve discussion, and so I  
4 don't know if any of you-all particularly have been  
5 involved in it anymore I think Mr Blanton's latest  
6 was that there are still ongoing discussions at the  
7 Office of Pipeline Safety about whether or not there  
8 would be any specific rule  
9 MR. BLANTON Yeah, there continues to  
10 be some discussion with the PHMSA organization now, I  
11 think which y'all have been familiar with in the past  
12 referred to as OPS or -- it's now changing to a name  
13 called PHMSA, Pipeline and Hazardous Materials Safety  
14 Administration.  
15 Their position --  
16 Yeah, it's a change It's another  
17 buzz word  
18 Their position is to look forward to  
19 maybe mandating the requirement on excess flow valves  
20 for all new and renewed service lines And they're  
21 also looking into the possibility of requiring the  
22 companies to file with them information as to why they  
23 do not install these devices  
24 Currently in Tennessee, we have more  
25 LDC systems that are voluntarily installing these

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1 devices, but we also know there's a cost associated  
2 with it. And I guess that's where Director Tate is  
3 coming from. It would be interesting to know what  
4 y'all's positions would be on that.  
5 MR. MORRIS: Piedmont currently offers  
6 excess flow valves on the meters at the customer's  
7 request, and they pay for that installation. That's  
8 our current policy.  
9 DIRECTOR TATE: Ms. Kelley  
10 MS. KELLEY: I'm afraid I don't know  
11 what our current policy is. I will have to provide  
12 that information later.  
13 DIRECTOR TATE: Well, I just really  
14 wanted to hear what you-all thought, because I have  
15 just been involved in it from the standpoint of  
16 discussing, once again, the benefit, risk,  
17 cost-to-customer analysis. And, you know, I just think  
18 it is so important in some of these examples that until  
19 there is an issue, a cause, a reason to either have a  
20 regulation or have a cost both to the company and to  
21 the customer that, you know, perhaps it's not time for  
22 government to step in.  
23 But I'm just one of many  
24 commissioners, so I just wondered if you-all had any  
25 thoughts on that. So I welcome your calls about that.

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1 at any point in the future  
2 Yes  
3 MR. BUIE: At Chattanooga Gas, we  
4 still install -- I say "still" -- We currently are  
5 installing those valves at the tap, just off the main.  
6 That protects both the house and that service line that  
7 comes in.  
8 We do have situations where we're  
9 discussing, we're reviewing where there's a household  
10 or resident with pool heaters or other large equipment  
11 with a very heavy flow. Sometimes when multiple burner  
12 tips come on, it causes those valves to shut off.  
13 So that's an exception as opposed to  
14 getting to a position to say that we are not supportive  
15 of the emergency flow valves. We are installing them,  
16 but we do realize in a lot of our design there may be  
17 certain situations where those valves just don't work  
18 appropriately.  
19 DIRECTOR TATE: Thank you-all  
20 Anything else?  
21 Well, that might be something GTI at  
22 some point would get involved in.  
23 Well, thank you-all  
24 Just in closing to General Phillips'  
25 remark, maybe the better way to do this might be for

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1 Mr. Jeffries to file the information with our General  
2 Counsel's office, and then General Counsel can decide  
3 whether or not to file it in the docket and whether or  
4 not it be made a part of this record.  
5 MR. PHILLIPS: What I had in mind  
6 was --  
7 DIRECTOR TATE: I mean, I don't know  
8 that what's gone on in other states would be a problem  
9 for here.  
10 MR. PHILLIPS: What my suggestion  
11 actually was, was just to ask General Counsel as to how  
12 it might be appropriate to proceed with it.  
13 I think if they want to just file it  
14 for informational purposes in this docket, I think that  
15 would be -- that would be fine.  
16 DIRECTOR TATE: If that meets your  
17 concern, that's all I ever intended.  
18 MR. PHILLIPS: Well, my real -- my  
19 real concern actually tripped on the idea of staff  
20 calling them to discuss it. That's -- that was what my  
21 concern was. And --  
22 DIRECTOR TATE: Okay. So if you're  
23 fine with them just filing something --  
24 MR. PHILLIPS: Well, what I'm hearing  
25 from Nashville Gas is that potentially that's going to

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1 be a petition maybe here once they've gotten what they  
2 think they're going to get in North Carolina. Again,  
3 I'm not talking -- I don't want to be their public  
4 relations folks, but that's what I was hearing.  
5 And so if that's the case, that's  
6 going to -- that certainly is going to be a contested  
7 matter. And if you've got conversations between staff  
8 and Nashville Gas about that, that would be my concern  
9 there. And I would just ask General Counsel as to what  
10 he thinks -- or they think might be appropriate.  
11 MR. JEFFRIES: My intent at this point  
12 was -- Director Tate, was simply to file the documents  
13 which are all public in nature. If there are concerns  
14 about that, then, I mean, obviously I'll defer to  
15 whatever the Authority's General Counsel determines.  
16 DIRECTOR TATE: If that resolves your  
17 concern, then they can just file it as informational  
18 materials in this docket.  
19 MR. PHILLIPS: I think as long as they  
20 file it, that's fine, and that's the communication.  
21 Again, it was my concern about the  
22 additional communication that might result from that.  
23 DIRECTOR TATE: Okay. Thank you.  
24 Well, it's interesting that today  
25 we've heard everything from I'm so glad that we touched

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1 on the fact that there is a national energy policy --  
2 and I just had a call today saying there may be another  
3 energy bill, so we may all be dealing with some of  
4 those issues in the coming weeks, before the end of  
5 this Congress.  
6 But it's interesting that all of the  
7 issues that we've talked about today are both a  
8 national policy and all the way down to us as  
9 individual consumers. And, obviously, it affects all  
10 of us.  
11 So the escalating gas prices that we  
12 are facing in the coming months are going to affect all  
13 of us and all Tennesseans.  
14 So, you know, the Authority is  
15 obviously concerned about the welfare of our consumers  
16 as well as just the impact on the businesses that are  
17 in this state and on our overall state economy.  
18 So I'm thrilled that we have had this  
19 continuing conversation, and I hope it won't end here.  
20 I thank you all for your participation and welcome your  
21 participation in the next one, when it is scheduled,  
22 and also really, really just wanted to encourage  
23 you all regarding this termination and cutoff policy  
24 and hope that you all will consider doing something  
25 just as a voluntary code of conduct.

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1 Thank you all for being here. We're  
2 adjourned.  
3 (Proceedings adjourned at  
4 3:30 p.m.)  
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## 1 REPORTER'S CERTIFICATE

2 STATE OF TENNESSEE )

3 COUNTY OF DAVIDSON )

4 I, Patricia W. Smith, Registered

5 Professional Reporter, with offices in Nashville,

6 Tennessee, hereby certify that I reported the foregoing

7 proceedings at the time and place set forth in the

8 caption thereof, that the proceedings were

9 stenographically reported by me, and that the foregoing

10 proceedings constitute a true and correct transcript of

11 said proceedings to the best of my ability

12 I FURTHER CERTIFY that I am not

13 related to any of the parties named herein, nor their

14 counsel, and have no interest, financial or otherwise,

15 in the outcome or events of this action.

16 IN WITNESS WHEREOF, I have hereunto

17 affixed my official signature and seal of office this

18 11th day of October, 2005

19

20

21

22 PATRICIA W. SMITH, REGISTERED

23 PROFESSIONAL REPORTER AND NOTARY

24 PUBLIC FOR THE STATE OF TENNESSEE

25 My Commission Expires

July 19, 2008



'05 MAR 4 PM 2 40

3 TN REGULATORY AUTHORITY  
DOCKET ROOM

February 28, 2005

Chairman Pat Miller  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

**Docket No. 05-00045**

Dear Chairman Miller:

Atmos Energy Corporation appreciates the invitation and the opportunity to provide to the Authority with topics of interest that we would like to have explored through workshop type sessions in the above referenced Docket. We believe an informal process would provide for more of a collaborative effort and better results. Listed below are topics that we look forward to discussing

- Revenue (Margin) Stabilization Clauses
- Pipeline Integrity Management (Deferral Orders)
- Pipe Replacement Programs and Funding Mechanisms
- Timely Recovery of Capital Spending
- Extension Policies (main and service line) and Utility Related Charges
- Rate Design
- Asset Management Arrangements
- Hedging Strategies
- Funding for Gas Technology Institute
- Energy Assistance for Low Income
- Performance Based Ratemaking
- Soft Close/Delayed Match (transfer of service between customers)
- Estimated Meter Reading
- Damage prevention programs (Common Ground Alliance)
- Call Center Standards
- Customer Service Standards
- Collections/Pay Arrangements/Deposits

We look forward to participating in the dialogue with all parties on these and other topics of interest

Sincerely,

A handwritten signature in cursive script that reads "Patricia Childers".

Patricia J. Childers

VP – Rates & Regulatory Affairs

Cc: Director Sara Kyle  
Director Ron Jones  
Director Deborah Taylor-Tate



# **TAB 3**

**Comments Filed Prior to  
December 1, 2005 in Docket 05-00046**

**IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**RECEIVED**

2005 MAR -1 PM 1:45

T.R.A. DOCKET ROOM

**IN RE:**

**GENERIC DOCKET FOR THE PURPOSE  
OF EXAMINING TRA RULES, POLICIES  
AND PROCEDURES IN LIGHT OF  
CURRENT TRENDS IN GAS  
INDUSTRIES**

**DOCKET NO. 05-00046**

---

**CONSUMER ADVOCATE'S COMMENTS**

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Comes now Paul G. Summers, the Attorney General and Reporter for the State of Tennessee, through the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), and hereby responds to the request of the Tennessee Regulatory Authority ("TRA") to comment on "emerging trends in the gas industry and whether current TRA rules, policies and procedures efficiently and effectively address these trends." TRA Notice of Filing Comments, February 2, 2005.

The natural gas industry provides an essential physical input to the rest of the economy. The industry's financial health and the rate of new technology adoption in the regulated natural gas industry are beneficial to both the private and public welfare. But there must be a continuous balance between that need for financial health and technological progress on one hand, and the tendency for captive customers-- those consumers who have no choice of suppliers and who have no bargaining power to negotiate favorable contracts--to be a source of profits that would not otherwise be achieved in a competitive market. Because the fixed costs are high in the natural gas business, where huge initial investment is required, once investment is in place there is only a small cost to serve additional customers. Furthermore, the cost declines as more customers are added, so

there is a strong incentive for any Local Distribution Company ("LDC") to serve as many customers as possible.

These cost conditions are steady and unchanging for the natural gas business. It uses and requires governmental franchise, eminent domain, and rights-of-way to do business. Entry into the business is controlled, and the business is not readily open to competing suppliers. Consumers' prices are set by administrative process and the natural gas utility usually has an obligation to serve all applicants and provide all applicants with the same quality service.

These conditions generally call for abundant and reliable information as a means for the regulatory authority and other parties to be well informed about the LDC and to achieve a well-balanced policy towards both the industry and the public that relies on that industry. Changing trends in finance, cost and consumption can usually be accounted for and dealt with in traditional contested rate cases filed by the LDC before the Authority.

In recent years, public confidence in many large companies, including utilities such as Enron, was shaken after it was revealed that what the companies reported to the public was not the same as the companies' actual condition. In short, the public did not have the right information on which to make decisions about these companies. One of the best ways, therefore, to create public confidence in the TRA decisions affecting their utilities is to assure that those decisions are based on reliable, publicly available, and transparent information. With this principle in mind, the Consumer Advocate would make the following comments.

**1. MAKE THE MINIMUM FILING GUIDELINES MANDATORY:  
GETTING THE RIGHT INFORMATION TO START A CASE.**

When a company files a rate case with the TRA requesting an increase in prices, there are certain guidelines that set forth the supporting information should be filed with that request. Currently, these guidelines are voluntary. In a recent rate case filed by Chattanooga Gas Company, TRA Docket No. 04-00034, the company deliberately chose not to follow the guidelines, as was its right under current TRA rules. As a result, the Consumer Advocate was forced to ask in discovery for much of the information that would already have been provided if the company had followed the guidelines. As the TRA Directors may recall, this case was a lengthy one, and the company even threatened to put its rates into effect prior to a decision by the TRA if the case was not heard within six months pursuant to Tenn. Code Ann. 65-5-203.

Accordingly, in order to make sure that the TRA, the Consumer Advocate and other interested parties have as much information as early as possible in a rate case, and in order to make sure rates are not put into effect prior to TRA decisions, the Consumer Advocate urges the TRA to make the current minimum filing guidelines mandatory by means of a new TRA rule.

**2. REVIEW CURRENT INCENTIVE PLANS TO MAKE SURE THAT  
THE CURRENT BENCHMARKS ARE RELIABLE.**

Incentive plans, whereby gas companies are encouraged to use practices that cut costs and save money which is then shared by both the company and consumers, are commendable. The Consumer Advocate, however, is concerned that the benchmarks that are used to set the incentives may not accurately reflect the current gas market and may not measure actual savings.

The Consumer Advocate, therefore, urges the TRA to conduct a complete review of the

incentive plans currently in existence in order to determine if they are still providing the proper benefits for Tennessee consumers.

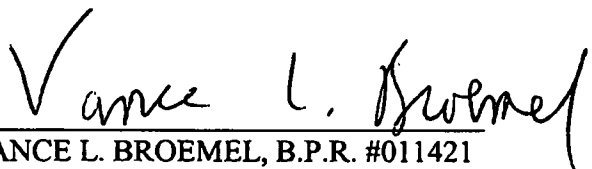
**3. COMPANY AUDITS: MAKING SURE THE TRA HAS THE RIGHT INFORMATION ABOUT TENNESSEE COMPANIES.**

Several recent dockets (01-00704 and 04-00034) have disclosed the need to more thoroughly examine the gas distribution companies' existing operating and accounting policies and procedures to assure that incentives and "sharing mechanisms" are functioning as intended. In addition, there is a need to assure that transactions between companies and affiliates are conducted in a proper manner. This docket presents an excellent opportunity for establishing ways of achieving these goals.

**4. SERVICE QUALITY STANDARDS AND REPORTING:  
GETTING THE RIGHT INFORMATION TO MAKE SURE  
TENNESSEE CONSUMERS ARE BEING PROPERLY SERVED.**

In a recent rate case with Tennessee American Water Company, TRA Docket No. 04-00288, the company agreed to report service quality metrics. Similarly, the Consumer Advocate urges the TRA to request the gas companies to report service quality metrics for their operations in Tennessee and make the data available to the public.

RESPECTFULLY SUBMITTED,

  
VANCE L. BROEMEL, B.P.R. #011421  
Assistant Attorney General  
Office of the Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202

(615) 741-8733

Dated: March 1, 2005

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

IN RE	)	
	)	
GENERIC DOCKET FOR THE PURPOSE	)	
OF EXAMINING TRA RULES, POLICIES	)	Docket No 05-00046
AND PROCEDURES IN LIGHT OF	)	
CURRENT TRENDS IN GAS INDUSTRIES	)	

---

**INITIAL COMMENTS OF NASHVILLE GAS COMPANY**

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Nashville Gas Company, a Division of Piedmont Natural Gas Company, Inc ("Nashville Gas" or the "Company"), through counsel and pursuant to the *Notice of Filing Comments* issued by the Tennessee Regulatory Authority (the "Authority" or the "TRA") on February 2, 2005, respectfully submits the following comments on and suggestions regarding the Authority's rules, policies, and procedures in light of current trends in the gas industry

**INTRODUCTORY COMMENTS**

As a general matter, Nashville Gas would like to express its belief that the Commission's existing rules, policies and practices are fundamentally sound and that the regulatory oversight provided by the Authority to Nashville Gas is generally effective. As the Authority is aware, the larger company of which Nashville Gas is a part provides natural gas sales and transportation services in three southeastern states and is regulated by three separate state public service commissions. The collective experience of the Company leads it to conclude that the Authority operates in an efficient and fair manner and that it gives serious consideration and thought to the matters brought before it which may affect the Company. Nashville Gas has no reason to doubt that this manner of conduct will continue and looks forward to working with the Authority and

under its direction in the continuing provision of high quality natural gas services to the Company's Tennessee customers

### **Specific Comments**

Having noted the efficient and effective way in which the Authority currently does business, Nashville Gas does have several suggestions about how the TRA might exercise its jurisdiction more efficiently and effectively for the benefit of ratepayers and the natural gas local distribution companies that serve them. These suggestions are set out below.

#### **I. POTENTIAL MODIFICATIONS TO TRA PURCHASED GAS ADJUSTMENT RULES.**

Nashville Gas has two suggested modifications to the Authority's Purchased Gas Adjustment ("PGA") rules set out at Rule 1220-4-7-01 through 1220-4-7-05. These modifications are designed to permit the Company, and other Tennessee natural gas local distribution companies ("LDCs") to better manage their respective Deferred Gas Cost Accounts and to avoid large under-recoveries or over-recoveries of an LDC's gas costs.

##### **A. Reduction in the Filing Period from 30 Days to 14 Days.**

Currently, Authority Rule 1220-4-7-02 provides that "to the extent practicable, any revision in the PGA shall be filed with the Commission no less than thirty (30) days in advance of the proposed effective date . ." This Rule permits the Authority to allow PGA changes to go into effect with less notice, but only upon a showing of good cause. This Rule was adopted in a period when the wholesale commodity price of natural gas was relatively stable over time. This is no longer the case as wholesale commodity gas prices now are highly volatile and can change relatively dramatically over short periods of time. Due to this change in the wholesale markets for commodity natural gas, the thirty (30) day notice period is becoming problematic for the Company and is contributing



to greater difficulty in managing its Deferred Gas Cost Account. Specifically, Nashville Gas has found that attempting to make a decision as to whether a change in the commodity cost of gas imbedded in the Company's rates will be needed thirty (30) days prior to implementing such a change is very difficult, if not impossible

The length of notice period currently required for PGA filings increases the likelihood that Nashville Gas (and other LDCs) will be incorrect about the actual commodity cost of gas at the time a PGA goes into effect. This, in turn, increases the likelihood that large imbalances in the Deferred Gas Cost Accounts for the various LDCs serving Tennessee will occur

In order to help mitigate the potential risks associated with having an incorrect cost of gas reflected in the Company's rates, Nashville Gas proposes that the Commission's PGA Rules be revised in order to reduce the notice period for a PGA change to fourteen (14) days. This shorter timeframe should help reduce the Company's (and its ratepayers') exposure to volatile wholesale commodity markets and, hopefully, will help reduce the amount of swing in the Company's Deferred Gas Cost Account resulting from differences between the market price of wholesale gas paid by the Company and the cost of gas imbedded in Nashville Gas' rates. This shorter notice period will not have any negative impact on the Company's customers and is consistent with the PGA notice periods utilized by the other State public service commissions by which the Company is regulated

**B. Elimination of Formula Approach to the PGA.**

Nashville Gas further suggests that the Authority consider doing away with its formula approach to managing the Gas Charge Adjustment component of its PGA Rules. Instead, Nashville Gas proposes that it (and other Tennessee LDCs) be permitted to make changes in its PGA based upon either anticipated changes in its demand or commodity gas costs or the need to collect or refund amounts in order to

maintain reasonable balances in the Deferred Gas Cost Account. This move away from a formula approach would serve the same end as the existing rules – allowing the Company to recover its gas costs – but would permit LDCs more flexibility in managing the Deferred Gas Cost Account.

Under the Authority's existing PGA rules, Nashville Gas is entitled to implement three mechanisms to recover its gas costs. These are the Gas Charge Adjustment, the Refund Adjustment, and the Actual Cost Adjustment. The first mechanism is designed to permit the Company to properly recover its commodity and demand gas costs through periodic changes in its rates. This mechanism is formula driven and has very little flexibility. The Refund Adjustment is similarly formula driven and inflexible. The Actual Cost Adjustment is not formula driven and is designed to permit the Company to recover any under-recovery or refund any over-recovery in its Deferred Gas Cost Account. The collective goal for which these mechanisms are designed is to ensure that an LDC properly recovers its gas costs and to avoid any under-recovery or over-recovery of those costs.

As a result of changing dynamics in the natural gas marketplace, and particularly the wholesale commodity market, substantial under-recoveries in the Deferred Gas Cost Account can now be created in relatively short order. Depending on wholesale market conditions and the time of year, the efficient recovery of these imbalances under the existing formula based system for the Gas Charge Adjustment can be problematic. In order to address this issue, Nashville recommends that the Authority adopt a more flexible PGA mechanism that would permit the Company to better manage its Deferred Gas Cost Account. Specifically, Nashville Gas suggests that the TRA's PGA Rules be modified to eliminate the formula approach in favor of a mechanism that permits LDCs to make changes in the Gas Charge Adjustment based on either (1) an anticipated change in its demand or commodity gas costs, or (2) the need to reduce or increase gas cost

collections in order to manage its Deferred Gas Cost Account. These changes would provide needed flexibility to react to the volatility in the wholesale gas markets and to ensure that the balance of the Deferred Gas Cost Account remains at a reasonable level.

## **II. POTENTIAL CHANGES TO TRA PROCEDURES**

Nashville Gas also believes that certain relatively minor modifications in the Authority's practices would be helpful in resolving matters brought to the TRA in an efficient and expeditious manner. These changes include the provision of proposed orders by parties to proceedings and a clarification of the practices of the Commission and its Staff with regard to when Staff acts in its advisory role versus when it acts in an adversary role.

### **A. Proposed Orders.**

Nashville Gas suggests that the Authority require and/or accept the submission of proposed orders and findings by interested parties to proceedings before the TRA. Nashville Gas has participated in a number of proceedings in other states where proposed orders and/or findings were submitted by the parties for consideration by the Commission and that process appears to have been helpful in achieving a prompt resolution of disputed matters. In making this suggestion, Nashville Gas is mindful of the fact that the Authority only has a limited number of Staff personnel devoted to the preparation of orders and a large number of matters that require orders. Nashville Gas' belief is that the submission of proposed orders and findings may be useful to these individuals as the documents help to define the differences between the parties' relative positions, provide an organized approach to the review of the evidence and legal issues presented by the proceeding, and also provide potentially useful discrete findings. The structure of the ultimate order generated by the Authority is, of course, within the scope of its discretion, however, the process of arriving at that order may be assisted (and

would not be hindered) by the filing of proposed orders and findings by interested parties

**B. Clarification of Staff Role in Certain Instances.**

Nashville Gas also suggests that it would be useful for the Authority to take steps to clarify the role of its Staff in individual matters that arise before the TRA. Taking such steps would assist parties appearing before the Authority to make the correct procedural and substantive assumptions about interacting with the Staff in particular cases. This would ensure that the process before the Authority operates smoothly and efficiently and would prevent any unintended negative consequences that might result from a mistake as to whether the Staff is acting in an advisory or adversary role.

In Nashville's experience, the TRA Staff sometimes acts in an active adversary role in matters brought before the Commission. In that role Staff takes on the attributes of a litigant and participates fully in the adjudicative process, engaging in discovery, filing motions and generally acting as an advocate for a particular position. Nashville Gas understands that Staff implements "Chinese wall" procedures in such instances to ensure that the individuals involved in advocating a particular position do not inadvertently discuss that position with Staff personnel acting in an advisory role to the Authority. In Nashville Gas' view, this role for Staff is proper as is the effort to segregate those Staff members who are acting as advocates from those acting as advisors.

Staff also functions purely as advisors to the Authority in many cases. In this role, Staff does not usually engage in the full range of litigation practices and does not make public arguments as to what result should be reached. Nashville Gas also believes that this role is perfectly proper.

In the past, Nashville Gas has been unclear at times as to which role the Staff is operating under in particular instances and, as such, has not been clear as to what procedural rights were available to the Company with respect to the Staff in those cases.

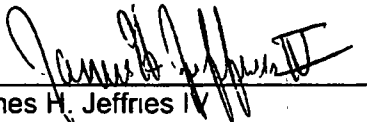
Authority Rule 1220-1-2-.21 provides for Staff participation as a party. As a minor adjustment of that Rule, however, Nashville Gas would ask that a notice requirement be put in place that would provide for the Staff to file and serve a notice that it is participating as a party in individual cases and would identify the Staff counsel and individuals acting as a party. This would ensure a clear understanding of the Staff's role in individual cases and would prevent inadvertent *ex parte* communications that could result between an active party and Staff based on a misperception of Staff's role in a particular case.

WHEREFORE, Nashville Gas Company, a division of Piedmont Natural Gas Company, Inc., respectfully requests that the Authority accept its comments and suggestions on the Authority's rules, policies and procedures as set forth herein.

Respectfully submitted this 28th day of February, 2005

Nashville Gas Company, a Division  
of Piedmont Natural Gas Company,  
Inc.

By

  
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Comments of Chattanooga Gas Company  
Docket No. 05-00046  
March 1, 2005

On February 2, 2005 the TRA issued a Notice of Filing Comments, Docket No 05-00046, Generic Docket For the Purpose of Examining TRA Rules, Policies and Procedures in Light of Current Trends in Gas Industry. In the notice, the Authority requested that interested parties address the need to amend its rules and procedures and include suggestions regarding the forum (e.g. workshop, or informal meeting) for the discussion of any needed amendments. The following are Chattanooga Gas Company's (CGC's) comments.

CGC commends the Authority for recognizing that the changes in the natural gas industry not only require the utilities to examine and modify their operating procedures, but also create a need for the regulatory process to be reviewed. Since the Authority has asked only for comments on the need for review and modification and has not yet established the forum for such a review, CGC will not, at this time, provide detailed suggested word changes to the rules. Instead, CGC will restrict its comments to only general recommendations of procedures and rules that require review and will reserve detailed proposals to be provided in the appropriate forum as determined by the Authority. CGC recommends that the Authority establish informal workshops in this proceeding to further review and refine the recommendations. In addition, the formation of committees consisting of both regulatory and utility personnel to more fully develop proposals resulting from the workshops would be useful prior to consideration by the Authority.

Areas recommended to be reviewed.

1. Regulatory reform

Tennessee has been in the forefront of recognizing the need for alternative forms of regulation and in 1993 adopted Rule 1220-4-2-.55 establishing alternative regulation for telephone companies in Tennessee. CGC recommends that the Authority consider in this proceeding adopting alternatives to the current rate case procedures that require an inordinate amount of Authority, utility, and intervenor resources. For example, Alabama's rate stabilization program has streamlined the regulatory process by eliminating the need for costly and time consuming rate cases, while still allowing the Commission the ability to adjust rates as necessary. This program has operated successfully for over twenty-two years. CGC recommends that the Authority review alternative regulatory procedures that have been successfully implemented in other jurisdictions, and adopt the appropriate alternative procedures for utilities operating in Tennessee.

2. Reform procedures for contested cases, including but not limited to the following:

- CGC recommends that the Authority modify its procedures to require that a procedural schedule be adopted within one month of the filing of each contested case that will allow the parties to properly plan and that will provide the Authority with the ability to easily monitor the progress of the case. The TRA would still have the ability to modify the schedule if necessary due to conditions or occurrences that were not anticipated at the time the initial procedural schedule was adopted.
- CGC recommends that the Authority define the role of Advisory Staff in contested cases and establish procedures to ensure compliance with Rule 1220-1-2-.21 when the Staff is acting as an adverse party
- CGC recommends that the Authority provide the utility and intervenor the opportunity to respond to the Staff's recommendation in a rate proceeding and other contested cases. Rate case proceedings and other contested cases include very complex and in many cases confusing issues and facts that can be easily misunderstood or misinterpreted. We understand that in assisting the Directors, the Staff prepares analysis of the record and provides memorandums that include recommendations on the various issues. Since these recommendations are not available to the parties, neither the utility nor the intervening parties have an opportunity to address any misunderstanding or misinterpretations of facts prior to the Directors making a decision regarding the case. CGC recommends that the TRA amend its procedures by providing copies of such recommendations to the parties with sufficient time for the parties to respond prior to placing the matter on a conference agenda for a decision. This is routine practice in states such as Virginia, Georgia, Florida, North Carolina, and Louisiana.
- CGC recommends that the Authority consider adopting procedures that would require a written Order to be issued within a certain period of time after the conclusion of a hearing. This would ensure timely and accurate implementation of the Authority's directives. For example, if the Authority votes on a matter, but delays issuing a written Order, the utility must either delay implementing the oral Order or bear the risk that it has clearly understood the Authority's findings. Further, in some instances, the lack of a timely written Order also encumbers a party's ability to take appropriate next steps.

3. Modify the 30 day filing requirement for PGA changes

The recent decision by the Authority to allow the Chairman to approve waivers for the 30 day requirement is greatly appreciated by the utilities, but in light of the rapid changes in the cost of gas, the utilities need the ability to respond rapidly.

The elimination or reduction of the 30 day requirement would not put the ratepayers at risk, since under the ACA requirement the actual cost of gas and the revenue collected through application of the PGA factors is reviewed annually.

4. Protection of proprietary documents during audits

As a result of the changes in the natural gas industry, the complexity and the nature of the gas procurement activities have changed. As a result in its audits of gas cost, the TRA Staff often needs access to third party commercially sensitive and highly competitive data. While CGC does not object to the TRA Staff having access to such data, it is obligated to protect such information from public disclosure. Pursuant to Tennessee statutory authority, the TRA can issue an order protecting such documents from public disclosure in a contested case. However, without such an order, all data in the possession of the TRA Staff is subject to the open records laws and cannot be protected from competitors that might seek such documents. Since the TRA has changed its procedures and requires the Actual Cost Adjustment filing under TRA Rule 1220-4-7, Purchased Gas Adjustment Rules to be accompanied by the same filing fee as a general rate case and otherwise processed the same as a general rate case, CGC recommends that the Authority issue the appropriate protective order if requested consistent with the procedures in a general rate case. Moreover, the Authority should establish procedures designed to protect commercially sensitive information from being disclosed to competitors, including but not limited to, limiting disclosure to the Staff and the CAPD only.

5. Utility responses to audit reports

Under the current procedure the Staff provides a draft of the individual findings and allows the utility to respond. The Staff, however, does not provide a copy of its recommendation or otherwise provide the utility the opportunity to respond to a recommendation that may not be supported by the facts presented in the audit. CGC recommends that prior to issuing the report, that the utility have the opportunity to fully respond to any draft conclusion or recommendation presented in the report.

6. Bare steel and cast iron replacement

As addressed in CGC's recent rate case, bare steel and cast iron facilities cannot be adequately protected from corrosion that destroys the integrity of the facilities and becomes more of a concern as these facilities age. In order to insure the timely replacement of such facilities, CGC recommends that the Authority consider the adoption of a mechanism that insures such facilities are replaced in a timely manner and the utilities are provided an opportunity to earn a fair and reasonable return without the need of continuous, costly rate cases.



7. Program to assist low income gas consumers

The Authority has for several years successfully administered the Telephone Lifeline and Link-up programs that provide assistance for low income telephone subscribers in Tennessee. No such program, however, has been developed to assist low income gas consumers. In Docket No. 04-00034, CGC proposed a program that would provide assistance to low income elderly who meet the same eligibility requirements of the Lifeline Program. Under this program, service would be provided to those eligible for assistance at a reduced rate. The program would be funded through a rider mechanism. While the program was not adopted in Docket No. 04-00034, it was recommended that the proposal be resubmitted in another proceeding. CGC recommends that the Authority investigate adopting such a program in the context of the pending generic proceeding.

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**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

IN RE )

GENERIC DOCKET FOR THE PURPOSE )  
OF EXAMINING TRA RULES, POLICIES )  
AND PROCEDURES IN LIGHT OF )  
CURRENT TRENDS IN GAS INDUSTRIES )

Docket No. 05-00046

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**NOTICE OF ORAL PRESENTATION AND  
ADDITIONAL COMMENTS OF NASHVILLE GAS COMPANY**

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Nashville Gas Company, a Division of Piedmont Natural Gas Company, Inc. ("Nashville Gas" or the "Company"), through counsel and pursuant to the *Notice of Meeting Addressing Procedural Issues* issued by the Tennessee Regulatory Authority (the "Authority" or the "TRA") on June 13, 2005, respectfully submits the following notice and additional comments in the above-captioned docket.

**NOTICE OF ORAL PRESENTATION**

Nashville Gas hereby provides notice to the Authority that the Company's undersigned counsel intends to make a brief oral presentation at the meeting scheduled in this proceeding for July 18, 2005 on the subjects of: (1) proposed refinements to the Authority's PGA procedures and rules; and (2) proposed refinements to the practices and procedures applicable to cases in which Staff takes an active role.

**ADDITIONAL COMMENTS**

Nashville Gas respectfully submits the following additional comments in this proceeding. These comments focus on the two issues identified above – modifications to the Authority's PGA rules and refinements to the practices and procedures applicable to cases in which Staff takes an active role. The purpose of these additional comments is to provide clarification of Nashville Gas' position on the matters listed above.

## **I. MODIFICATIONS TO PGA PROCEDURES**

Nashville Gas has suggested two modifications to the Authority's Purchased Gas Adjustment Rules (Rule 1220-4-7-.01 through 1220-4-7-.05). These are: (1) a reduction in the notice period for making PGA changes from 30 to 14 days; and (2) elimination of a formula driven approach to the PGA mechanism.

A. Reduction in the Notice Period from 30 Days to 14 Days. Rule 1220-4-7-.02 currently provides for a 30 day notice of PGAs. This Rule was adopted in a period when wholesale natural gas prices were relatively stable. That is no longer the case. Due to the currently highly volatile nature of wholesale gas markets, the 30 day notice period currently required for PGA filings increases the likelihood that Tennessee LDCs will be incorrect about the actual commodity cost of gas at the time a PGA goes into effect. This, in turn, increases the risk of significant imbalances in the deferred gas cost accounts of LDCs serving Tennessee customers. Significant imbalances in the deferred gas cost accounts are not in the public interest as they represent either over-collected or under-collected gas costs. In order to help mitigate the risk of substantial deferred account imbalances, Nashville Gas proposes that the Commission's PGA Rules be revised in order to reduce the notice period for a PGA change to fourteen (14) days. This shorter notice period will not have any negative impact on the Company's customers and is consistent with the PGA notice periods utilized by the other State public service commissions by which Nashville Gas Company is regulated.

B. Elimination of Formula Approach to PGA. The Authority's current PGA Rules are highly formulaic. Nashville Gas proposes that the formulas be eliminated and that Tennessee LDCs be permitted greater discretion to make PGA changes based upon either anticipated/actual changes in their demand or commodity gas costs or the need to collect/refund amounts in order to reasonably manage the balances in their deferred gas cost accounts. This move away from a formula approach would serve the

same end as the existing rules – allowing the Companies a reasonable mechanism to recover their gas costs – but would permit LDCs more flexibility in managing deferred gas cost accounts in order to avoid large imbalances. This change would provide needed flexibility to react to the volatility in the wholesale gas markets, to compensate for seasonal variations in customer gas usage, and would act to ensure that the balance of deferred gas cost accounts stay as close to zero as reasonably possible.

## **II. CLARIFICATION OF STAFF ROLE IN CERTAIN INSTANCES**

Nashville Gas also suggests that the Authority take steps to clarify the role of its Staff in individual matters that arise before the TRA in which the Staff takes an active role. Taking such steps would assist parties appearing before the Authority to make the correct procedural and substantive assumptions about interacting with the Staff in particular cases and would also ensure that potential resolutions of disputed matters are fully and fairly examined in a transparent process which provides all parties the opportunity to introduce evidence in support of possible resolutions of disputed matters. These steps would ensure that the process before the Authority operates smoothly and efficiently and would prevent any confusion as to whether Staff is acting as advisors or advocates. These steps would also ensure that all proposed resolutions of disputed matters are fully and openly examined before a decision is reached by the Authority.

In Nashville's experience, the TRA Staff sometimes acts in an adversary role in matters brought before the Authority. In that role, Staff often exhibits many of the attributes of a litigant. Nashville Gas understands that Staff implements "Chinese wall" procedures in such instances to ensure that the individuals involved in advocating a particular position do not inadvertently discuss that position with Staff personnel acting in an advisory role to the Authority. In Nashville Gas' view, this role for Staff is proper as is the effort to segregate those Staff members who are acting as advocates from those acting as advisors. Staff also functions purely as advisors to the Authority in many

cases. In this role, Staff does not typically engage in activities associated with an active participant in litigation (such as taking discovery or formulating independent proposed resolutions of disputed matters). Nashville Gas also believes that this role is perfectly proper.

In the past, Nashville Gas has been unclear at times as to which role the Staff is operating under in particular instances and, as such, has not been clear as to what procedural rights were available to the Company with respect to the Staff in those cases. Authority Rule 1220-1-2-.21 provides for Staff participation as a party. As a minor adjustment of that Rule, however, Nashville Gas would ask that a notice requirement be put in place that would provide for the Staff to file and serve a notice that it is participating as a litigant in individual cases and would identify the Staff counsel and individuals acting in this capacity. This would ensure a clear understanding of the Staff's role in individual cases and would prevent inadvertent *ex parte* communications that could result between an active party and Staff based on a misperception of Staff's role in a particular case.

A corollary concern is raised when Staff appears to act in an advisory capacity but is actively engaged in taking discovery and/or makes substantive recommendations to the Authority about the resolution of issues in a disputed case that are different from those presented by the active parties. In such cases, the Staff's activities are not governed by procedural orders applicable to discovery/testimony and the Staff's positions are not disclosed or examined in the hearing process. If the Authority adopts Staff's position in such circumstances, then the first time any party to the proceeding will be aware of the existence of such recommendations is in the Authority's order. This is procedurally awkward because the active parties, who have not had the opportunity to consider and address Staff's recommendations will be faced with a resolution of the case that was likely not addressed in the hearing process. Further, Staff is at somewhat

of a disadvantage in these circumstances because it does not have the opportunity to ensure that the record contains enough evidence to support its proposed resolution. The Authority is at a disadvantage because any objections or proposed refinements to Staff's proposals can only be pursued by a challenge to the legal sufficiency of the Authority's order through reconsideration or an appeal. As a result of these facts, Nashville Gas believes that the transparency and procedural efficiency of a disputed case in which Staff takes an active role but is not declared a litigant is problematic for all interested parties.

We believe that a better approach would be to adopt procedures that would allow the parties to a contested case to address the evidentiary and legal basis of substantive Staff recommendations before they appear in a final order and for the Staff to present evidence to support any solution they may have to a disputed issue in the hearing process. This suggestion is not intended to disrupt the Authority's deliberative privilege with its Staff but instead is intended to improve the adjudicative process in a way that ensures the full, open and fair examination of all possible resolutions to disputed matters and the evidence supporting those resolutions, before the Authority reaches its decision.

In order to implement this solution, Nashville Gas proposes that the Commission's Rules be modified to provide for a notice to be filed in any docket in which Staff intends to actively participate which notifies the TRA and all other parties of the fact that Staff will be participating as a party and the identity of Staff members who will act as a litigant in the proceedings. For clarification, Nashville Gas further proposes that such notice be required in cases where Staff intends to take discovery or to propose an independent resolution of disputed matters (or the consideration of additional issues not in dispute by the active parties). These requirements are consistent with the distinction between active Staff participation in a case as an advocate and more passive assistance to the Authority in deciding who amongst the active litigants has proved their case and/or

suggested the best resolution of any disputed matter. These requirements will also ensure that the resolution of disputed matters before the Authority is accomplished in an open, fair and fully informed process.

WHEREFORE, Nashville Gas Company, a division of Piedmont Natural Gas Company, Inc., respectfully requests that the Authority accept its Notice and Additional Comments on the Authority's rules, policies and procedures as set forth herein.

Respectfully submitted this 1st day of July, 2005.

Nashville Gas Company, a Division  
of Piedmont Natural Gas Company,  
Inc.

  
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As discussed below, the Tennessee Court of Appeals has repeatedly affirmed that confidential information, such as trade secrets, which is protected by state law, is exempt from the mandatory disclosure requirements of TOPRA. In light of this law, Atmos proposes that the Authority consider adopting a rule similar to Georgia Public Service Commission Rule 515-3-1-.11 (attached hereto as Exhibit 1), which provides a procedure to protect the confidentiality of information submitted to the agency.

**II. TOPRA CONTAINS AN EXCEPTION FOR INFORMATION, SUCH AS TRADE SECRETS, WHICH IS PROTECTED BY STATE LAW.**

The vast majority of information the TRA receives would fit the definition of a public record, and therefore fall within the scope of TOPRA. As such, unless the information falls within an exception to the public disclosure requirements of TOPRA, the TRA likely lacks the authority to maintain the confidentiality of such information. The opinion of the Tennessee Court of Appeals in its recent decision in Swift v. Campbell, 159 S.W.3d 565 (Tenn. Ct. App. 2004), *perm. app. denied* Aug. 25, 2004, contains a detailed discussion of the scope, purpose, and application of TOPRA. In that opinion, the Court noted that consistent with the legislative intent to promote public awareness of government actions, TOPRA requires that all "public records," which are defined to include virtually all printed matter created or received by government in its official capacity, be made available to the public upon request. Swift, 159 S.W.3d at 571. However, TOPRA has, since its inception, excepted certain types of information from the disclosure requirements. As the Court in Swift recognized, included among those exceptions is a general exception for information, such as trade secrets, protected from disclosure by other provisions of state law:

Notwithstanding the breadth of the public records statutes' disclosure requirements, the General Assembly recognized from

the outset that circumstances could arise where the reasons not to disclose a particular record or class of records would outweigh the policy favoring public disclosure. Accordingly, the General Assembly provided two types of exceptions from disclosure under the public records statutes. First, the General Assembly included specific exceptions from disclosure in the public records statutes themselves. Second, it acknowledged and validated both explicit and implicit exceptions from disclosure found elsewhere in state law.

Swift, 159 S.W.3d at 571. The general exception for information protected by other provisions of state law is codified in Tenn. Code Ann. § 10-7-503(a), which provides, in relevant part, that

all state, county and municipal records and all records maintained by the Tennessee performing arts center management corporation, except any public documents authorized to be destroyed by the county public records commission in accordance with § 10-7-404, shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee, and those in charge of such records shall not refuse such right of inspection to any citizen, *unless otherwise provided by state law*.

(emphasis added).<sup>1</sup> Therefore, when determining whether a particular document must be disclosed under TOPRA, the courts' "role is to determine whether state law either explicitly or implicitly excepts particular records or a class of records from disclosure...." Swift, 159 S.W.3d at 572. Tennessee courts have repeatedly affirmed the proposition that the exceptions from TOPRA's disclosure requirements are not limited to the enumerated categories found in the Act itself, but include exceptions arising from various other provisions of state law. See, e.g., Eldridge v. Putnam County, 86 S.W.3d 572, 575 (Tenn. Ct. App. 2001) (noting that could be exempt from disclosure under state statutes, the Rules of Civil Procedure, or common law);

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<sup>1</sup> As the Swift Court pointed out, the original version of TOPRA excepted from disclosure government documents whose confidentiality was "provided by law or regulations made thereto." Swift, 159 S.W.3d at 571. In 1984, the legislature narrowed this exception to apply only to records made confidential by "state statute." Id. In 1991, the legislature returned the exception to a broader scope by replacing "state statute" with "state law." Id. As the Court recognized in Swift, this change "broadened the permissible sources of exceptions from disclosure to include not only statutes, but also the Constitution of Tennessee, the common law, the rules of court, and

Coats v. Smyrna/Rutherford County Airport Authority, 2001 WL 1589117 at \*4 (Tenn. Ct. App. Dec. 13, 2001) (holding that TOPRA's general exception "qualifies the presumption of openness by creating a general exception for other state laws protecting documents," which would include the Canons of Professional Conduct adopted in Supreme Court Rule 8); Arnold v. City of Chattanooga, 19 S.W.3d 779, 785 (Tenn. Ct. App. 1999) (upholding exception under Tenn. R. Civ. P. 26 work product doctrine, and noting that past cases decided under TOPRA's general exception "make clear that courts will find exceptions to the Public Records Act apart from those specifically set forth therein," and that "[s]pecifically, the Court will look to the Rules of Civil Procedure and the Common Law for such exceptions."); Ballard v. Herzke, 924 S.W.2d 652, 662 (Tenn. 1996) (holding that information subject to a protective order entered pursuant to Tenn. R. Civ. P. 26 was exempt from disclosure under TOPRA's general exception); Seaton v. Johnson, 898 S.W.2d 232, 236 (Tenn. Ct. App. 1995) (holding that federal confidentiality requirements governing railroad crossing safety information fell within TOPRA's general exception); Appman v. Worthington, 746 S.W. 2d 165, 167 (Tenn. 1987) (holding that the Tennessee Rules of Criminal Procedure fell within TOPRA's general exception).

Many petitioners requesting access to public records have argued that the Court's opinion in Memphis Publishing Co. v. Holt, 710 S.W.2d 513 (Tenn. 1986), limits TOPRA's exceptions to those enumerated in the statute. That argument has been consistently rejected as a misinterpretation of the Holt opinion. As subsequent opinions have recognized, in Holt, the court's refusal to exempt the investigative records at issue from disclosure was not based exclusively on the fact that there was no specific exception for such records within TOPRA

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administrative rules and regulations because each of these has the force and effect of law in Tennessee." Id. (internal citations omitted)

itself, but also on the court's specific finding that such records were not otherwise exempted by state law, and therefore not within the general exception. See The Tennessean v. City of Lebanon, 2004 WL 290705 at \*8 (Tenn. Ct. App. Feb. 13, 2004) (discussing the holding in the Holt case). In Holt, the city requested that the court create a public policy exception to TOPRA, an argument the court rejected. Id. The Holt decision did nothing to remove or limit the application of TOPRA's general exception for documents protected by statute, rules, or common law.

These cases make it clear that the TRA may adopt a procedural rule protecting the confidentiality of information submitted in non-contested cases, without violating TOPRA, as long as the information is protected by other provisions of state law. As discussed in the following section, there can be no question but that trade secrets are protected under state law.

### **III. THE TRA HAS AN OBLIGATION TO PROTECT THE CONFIDENTIALITY OF TRADE SECRET INFORMATION.**

Both Georgia and Tennessee have adopted the Uniform Trade Secrets Act, which protects against disclosure of trade secrets. A trade secret is defined as follows:

Trade secret means information, without regard to form, including, but not limited to, technical, nontechnical or financial data, a formula, pattern, compilation, program, device, method, technique, process, or plan that:

(A) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

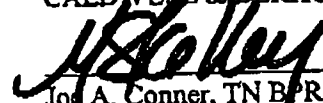
(B) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Tenn. Code Ann. § 47-25-1702(4). Much, if not all, of the filings Atmos has and will seek to protect would fall within the definition of trade secrets. The Tennessee Trade Secrets Act

prohibits "misappropriation" of trade secrets, which is defined to include disclosure of trade secrets by persons (defined to include government agencies) with a duty to maintain confidentiality. Tenn. Code Ann. § 47-25-1702. Under these definitions, arguably, once the TRA is informed that information being submitted is trade secrets, the Authority could be deemed liable for misappropriation if it refused to protect the confidentiality of such information.

By enacting a procedural rule similar to the Georgia rule submitted herewith, which includes a procedure allowing individuals to contest the designation of material as a trade secret, the TRA would comply with both the general duty to maintain the confidentiality of trade secret information, and with its obligations under TOPRA. As such, Atmos respectfully requests that the TRA consider adoption of such a rule.

BAKER, DONELSON, BEARMAN  
CALDWELL & BERKOWITZ



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Attorneys for Atmos Energy Corporation

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been mailed, postage prepaid, to the following parties of interest this 1st day of July, 2005.

Richard Collier  
General Counsel, Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

\_\_\_\_\_

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**515-3-1-.11 Trade Secrets.**

(1) In the event that any party or utility subject to the jurisdiction of the Commission is required to file with the Commission, or otherwise requested to provide to the Commission staff information which that party or utility considers to be a trade secret (as defined in O.C.G.A. Section 10-1-761(4)) (hereinafter referred to as "protected information"), then the following procedures shall apply:

(a) The affected party or utility shall submit, within the time specified or agreed to, the required or requested protected information under protective seal with the designation "TRADE SECRET" prominently attached to each page thereof; and  
(b) The affected party or utility shall, at the same time, provide a version of the document containing protected information which can be used for public disclosure with the designation "PUBLIC DISCLOSURE DOCUMENT" prominently attached to each page thereof; and

(c) The affected party or utility shall, at the same time, provide in writing the legal and factual basis for its assertion that the protected information is a trade secret and should not be disclosed, including, for each item claimed to be a trade secret:

1. Why the information derives economic value from not being generally known to others;

2. How others can obtain economic value from its disclosure; and

3. Procedures utilized by the affected party or utility to maintain its secrecy; and

(d) The affected party or utility shall maintain a master list of all documents submitted to the Commission pursuant to this rule, which list shall identify the document submitted, the number of copies submitted, and, if applicable, the docket in connection with which submission was made.

(2) Upon request by any person pursuant to the Georgia Open Records Act, O.C.G.A. Section 50-18-70, et seq., for access to information which includes protected information, the Commission shall respond by providing that person with any non-protected information requested, the "public disclosure" version of the protected information, and written notice that certain information has been withheld as alleged protected information not subject to public disclosure.

(3) Any person who is a party or intervenor in a docket or non-docket matter, other than the Consumers' Utility Counsel, and desires access to protected information submitted to the Commission pursuant to this rule, may petition the Commission for such access. A hearing shall be held to consider the request, at which time the affected party or utility shall have the burden of proving that the potential for economic harm to them outweighs the public benefit derived from allowing the party or intervenor access to such information.

(a) Any person who is granted access to protected information pursuant to paragraph (3) above, and the Consumer's Utility Counsel, shall be required to enter into a protective agreement with the affected party or utility which shall include, but not be limited to, the following terms:

1. Access to and use of the protected information shall be limited to matters relating to the docket or non-docket;

2. The protected information shall not be disclosed to any other person at any time unless such disclosure is required by an order of the Commission or a court of competent

jurisdiction or authorized by the affected party or utility;

3. The protected information shall not be copied or otherwise reproduced by the party or intervenor; 4. The agreement shall apply to all employees, attorneys, agents, and consultants of the party or intervenor;

5. Any other terms or conditions as are reasonable to insure the confidentiality of the protected information.

(4) The Commission, upon request by the party or intervenor and after being provided with an executed copy of the protective agreement, shall provide the party of intervenor with the number of copies of the protected information agreed upon in the protective agreement, which copies shall be returned to the Commission not later than forty-five (45) days after the conclusion of the docket or non-docket, or the conclusion of judicial appeals relating to the matter.

(5) Within thirty (30) days of compliance by parties or intervenors with the provision of paragraph 4 above requiring the return of the protected information to the Commission, the Commission shall return all copies of the protected information in its possession to the affected party or utility, and the affected party or utility must preserve and maintain a master copy of said protected information for a period of seven (7) years.

(6) The public disclosure version of the protected information shall be utilized in the course of an open docket or public hearing, if necessary; provided, however, that, if the Commission staff or any party determines that protected information must be utilized in the course of an open docket or public hearing, then they shall meet or confer with the affected party or utility in a good faith effort to accommodate such use, or make an appropriate motion before the Commission for such use.

(7) Any party or intervenor, the Commission staff, the Consumers' Utility Counsel, or the Commission on its own motion, may challenge the designation of information as a "trade secret" by filing a motion to that effect with the Commission. In such a case, the affected party or utility shall have the burden of proving that the information constitutes a trade secret. If, after a hearing and an in-camera inspection, the Commission determines that the information provided does not constitute a trade secret or only a portion of the information is a trade secret, or that the protected information must be disclosed in part or in whole in connection with any hearing, or otherwise, then the Commission shall issue an order to that effect, which order shall be automatically stayed for thirty (30) days from the date of the order.

(8) The Commission, its staffs, attorneys, agents, and consultants, shall not disclose any protected information except as authorized by the affected party or utility, by Commission order, by court order, or by these rules, and shall take all reasonable and necessary measures to maintain the confidentiality of the protected information.

Authority Ga. L. 1878-79, p. 125; 1907, pp. 72-81, 1922, pp. 142-147; 1975, pp. 404-412 History. Original Rule entitled "Trade Secrets" adopted. F. Oct. 14, 1994, eff. Nov 3, 1994



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**SUMMARY OF REVISED RECOMMENDATIONS  
OF CHATTANOOGA GAS COMPANY**

**PROCEDURAL/PROCESS ISSUES**

T.R.A. DOCKET ROOM

**DOCKET 05-00046**

Based on the comments presented at the meeting held by the TRA on Monday, July 18, 2005, below please find a summary of the revised recommendations of Chattanooga Gas Company ("CGC") regarding the procedural/process issues.

- CGC recommends that the TRA review alternative regulatory procedures for utilities operating in Tennessee. This would include a review of Rate Stabilization Programs similar to those in effect in Alabama and South Carolina. The review also should include consideration of providing more procedural flexibility to review novel or unique issues in proceedings outside of a traditional rate case. So many issues are presented in a traditional rate case that novel or unique issues often do not receive the level of attention necessary for a full understanding of the issue. A separate proceeding would provide for more focused discussions. Examples of potential proceedings include, but are not limited to, a proceeding to address programs to assist low income gas consumers that could be funded through a rider mechanism, a proceeding to establish a program to address bare steel and cast iron pipe replacement with an appropriate recovery mechanism, and a proceeding to determine the appropriate policy governing the regulatory treatment of synergy savings resulting from mergers and acquisitions that would provide appropriate incentives to encourage such activity.
- CGC recommends that the Authority modify its procedures to require that a procedural schedule be adopted within one month of the filing of each contested case that will allow the parties to properly plan and that will provide the Authority with the ability to easily monitor the progress of the case. The TRA would still have the ability to modify the schedule if necessary due to conditions or occurrences that were not anticipated at the time the initial procedural schedule was adopted.
- CGC recommends that the Authority define the role of Advisory Staff in contested cases and establish procedures to ensure compliance with Rule 1220-1-2-21 when the Staff is acting as an adverse party. CGC supports the written comments of Nashville Gas Company in this regard. CGC recommends that Advisory Staff not propound discovery in contested proceedings since that should be the role of the Adversary Staff as a party-litigant to the proceeding. If the Advisory Staff is allowed to propound discovery, then CGC recommends that the procedural order address Advisory Staff's role in that regard and provide for procedures to address questions or disputes that might arise regarding Advisory Staff's discovery. Further, any such Advisory Staff discovery should not be made a part of the record since the Advisory Staff is not a party-litigant to the proceeding, and the normal evidentiary safeguards of tendering evidence and allowing parties to raise appropriate objections would not be present.

- CGC recommends that the Authority provide the utility and intervenors the opportunity to respond to the Staff's recommendation in a rate proceeding and other contested cases. Rate case proceedings and other contested cases include very complex issues and facts that can be easily misunderstood or misinterpreted. We understand that in assisting the Directors, the Staff prepares analysis of the record and provides memorandums that include recommendations on the various issues. Since these recommendations are not available to the parties, neither the utility nor the intervening parties have an opportunity to address any misunderstanding or misinterpretations of facts prior to the Directors making a decision regarding the case. CGC recommends that the TRA amend its procedures by providing copies of such recommendations to the parties with sufficient time for the parties to respond prior to placing the matter on a conference agenda for a decision. This is routine practice in states such as Virginia, Georgia, Florida, North Carolina, and Louisiana. CGC is not recommending that advice or informal information provided in response to questions from Directors by Advisory Staff be made public. Rather, CGC is only recommending that the final formal memorandum be provided to the parties.
- CGC recommends that the Authority consider adopting procedures that would require a written Order to be issued within a certain period of time after the conclusion of a hearing. This would ensure timely and accurate implementation of the Authority's directives. For example, if the Authority votes on a matter, but delays issuing a written Order, the utility must either delay implementing the oral Order or bear the risk that it has clearly understood the Authority's findings. Further, in some instances, the lack of a timely written Order also encumbers a party's ability to take appropriate next steps.
- CGC recommends the elimination or reduction of the 30-day notice requirement for adjustments to the PGA. CGC supports the comments of Nashville Gas Company in this regard. Based on the volatility that exists in the gas markets today, the 30-day requirement is too long. The elimination or reduction of the 30-day requirement would not put customers at risk because the actual cost of gas and the revenue collected through application of the PGA factors is reviewed annually. CGC also supports Nashville Gas Company's recommendation that the formulaic approach to the PGA mechanism be eliminated.
- CGC recommends that the TRA enact rules or procedures to protect proprietary documents filed with the Authority. CGC supports the comments of Atmos Energy Corporation in this regard. Proprietary data filed in response to audits of gas cost or in non-contested proceedings before the Authority should be protected from public disclosure. If the TRA is not persuaded by the legal analysis presented by Atmos, CGC recommends that the TRA seek an Attorney General's opinion to determine whether the current statutory framework and case law provide the TRA the ability to protect such documents. If it is determined that the TRA presently does not have such authority, CGC recommends that the TRA seek appropriate legislation to provide for the protection of commercially sensitive and highly competitive data filed during audits or non-contested proceedings.

5 NA C

- CGC recommends that utilities subject to a Staff Audit be allowed to fully respond to draft conclusions or recommendations prior to a draft audit report being made final. Currently, the practice is for the Staff to provide a draft of the individual audit findings and to allow the utility to respond to such draft findings. However, the utility is not provided the opportunity to respond to draft conclusions or recommendations of the audit report. Allowing for such a review, could help to eliminate any misunderstandings or misinterpretations prior to an audit report being made final.
- CGC does not recommend that the TRA make the minimum filing guidelines mandatory. CGC believes that the voluntary guidelines have been working sufficiently well for the Authority. CGC does not agree with the anecdotal evidence raised by the CAPD in its request that the guidelines be made mandatory. If the TRA desires to make the minimum filing guidelines mandatory, then the guidelines should be revised to apply to all utilities. Currently, many of the questions do not apply to CGC, and in such cases "not applicable" should be considered the appropriate response. In addition, if the guidelines are made mandatory, then any responses which include proprietary information should not have to be filed until a protective order is entered by the Authority for the proceeding, unless prior to the filing of the information the TRA adopts a trade secret rule that allows for protection of the information upon filing without the need for such a protective order.

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>GENERIC DOCKET FOR THE</b>	)	<b>Docket No. 05-00046</b>
<b>PURPOSE OF EXAMINING TRA</b>	)	
<b>RULES, POLICIES AND PROCEDURES</b>	)	
<b>IN LIGHT OF CURRENT TRENDS IN</b>	)	
<b>GAS INDUSTRIES</b>	)	

**COMMENTS OF GAS TECHNOLOGY INSTITUTE**

**I. INTRODUCTION**

Gas Technology Institute ("GTI") respectfully submits these comments in response to the notice dated February 2, 2005 from the Tennessee Regulatory Authority requesting comments on "whether the rules and procedures, particularly those relating to audits and mandatory filings, should be amended to reflect current trends in the gas industry and should include suggestions regarding the forum (e.g. workshop, informal meeting) for discussion." GTI believes that there is a need for the TRA's rules and procedures to be amended to reflect the need to provide for the funding of gas-consumer oriented research and development (R&D) activities for purposes including, but not limited to, increasing the safety and integrity of the state's gas distribution system, reducing operating costs of local distribution companies in order to lower the cost to all Tennessee consumers of natural gas, and to determine ways to increase the efficiency of end-use equipment, particularly aimed toward, but not limited to, low-income customers of local distribution companies.

Alternatives to fund gas-consumer interest R&D have been severely limited in an era of energy industry restructuring. Formerly, the Federal Energy Regulatory Commission ("FERC") provided funding at the rate of 1.74 cents per Dth, which was paid by the gas pipeline companies

and passed on to the consumer through the purchased gas adjustment of the local distribution companies. A phase out of this funding began in 1998, and it is now totally eliminated. Another federal approach to funding R&D via Congressional legislation has not found a sponsor. The state-by-state approval approach is now the best and only remaining pathway for funding gas-consumer interest R&D.

Accordingly, GTI proposes that the TRA adopt mechanisms, through changes in rules and procedures or otherwise, to generate the funding necessary to support this R&D that is critical to the interests of the gas consuming citizens of Tennessee. The discussion below states the rationale for supporting this funding, gives examples of R&D projects that are designed to achieve the goals set forth above, and proposes a funding mechanism for consideration and adoption by the TRA.

GTI also endorses the idea of the TRA conducting a public workshop for discussion of the issues raised here and by others under this Docket.

## **II. SPECIFIC COMMENTS**

### **A. Research Funding is Needed to Determine Ways to Increase the Efficiency of End-use Equipment, Particularly Aimed Toward, but not limited to, Low-Income Customers of Local Distribution Companies.**

Tennessee's low-income ratepayers are facing a particular challenge given high gas costs and increased price volatility. From the U.S. Bureau of Census data, 12.4% of Americans, and 13.5% of Tennesseans, are below the Federal poverty line. For those over 65 years of age, 9.9% of Americans and 13.5% of Tennesseans are below the poverty line. The development of advanced, low-cost, high-efficiency end-use equipment targeted to low-income customers can help to lower gas demand and hence lower gas bills to relieve the burden on this customer set, as

well as to reduce “uncollectibles” that are a burden to the rest of Tennessee’s gas consumers and the LDC’s. The focus of the R&D would be on residential furnaces, water heaters, and combination units and taking a systems approach (whole house, energy distribution system, and “smart” controls) toward reducing low-income customers’ gas bills. Of course, the devices could be used by all residential customers in Tennessee. Specific projects include:

- **Combination Space/Water Heater** - GTI is seeking to assess the performance via field testing in Tennessee of an optimized fully condensing water heater in combination space/water heater applications. The system will eliminate the need for a space heater, using the water heater (and a water-to-air heat exchanger) for both water and space heating, and should aid low-income customers by reducing the first cost and operating cost of buying a space and water heater at the same time. The high-efficiency, condensing water heater uses porcelain coating on both sides of the heat exchanger to avoid corrosion and keep manufacturing costs down (by avoiding the use of stainless steel). It has an energy efficiency of over 93%. However, field testing and system design in a real-world environment is critical to minimizing the technical risk on this project.
- **Low-Income Energy Management Device** - Develop a low-income energy management device that incorporates intelligent learning and advanced sensors to analyze desired comfort levels, occupancy habits, and budgetary constraints to provide a sophisticated energy management system that optimizes occupants’ comfort but yet reduces energy costs.
- **Multifamily Superboiler** - Using results of GTI’s industrial (94% efficient, low-NO<sub>x</sub>, 10 MMBtu/hr and larger) superboiler efforts, develop a smaller scale (1-2 MMBtu/hr)

boiler for multifamily residential use that will enable these customers to take advantage of a 94% efficient boiler technology, for those multifamily dwellings using boilers for heating.

- **Instantaneous Tankless Water Heater** - Develop the next-generation instantaneous water heater and components. Goals include parasitic electric power reduction/elimination, improved heat exchanger life and efficiency, low NOx burner  $\leq 20$  ppm (80% emissions reduction), design and integration and reduced maintenance requirements using advanced technology to reduce mineral build-up and sensor fouling to maintain operational efficiency and extend the equipment lifetime.
- **Advanced Energy Distribution System** - Develop advanced energy distribution systems (gas, electric, air, water, waste, ventilation/ humidification, and exhaust) that will reduce installation costs and stand-by and distribution system losses, improve energy efficiency, safety and comfort, and increase livable space.

R&D efforts devoted to the above projects have the strong potential to provide benefits to both low-income and other Tennessee customers. These R&D efforts are worthy of funding, which the TRA should provide through the adoption of such rules and procedures as may achieve these goals.

**B. Research Funding Is Needed To Determine Ways To Increase The Safety And Integrity Of The State's Gas Distribution System.**

While Tennessee's gas local distribution companies are dedicated to providing safe, reliable gas service to Tennessee consumers, there is a need for advanced technology to further enhance system safety, integrity, security, and deliverability. GTI submits that this can best be attained through the R&D funding proposed in these Comments

According to A.G.A.'s 2003 Gas Facts, for example, there are in Tennessee:

- 208 miles of bare, un(cathodically)-protected steel gas mains,
- 152 miles of bare, protected steel gas mains,
- 17,588 miles of plastic gas mains, and
- 346 miles of cast iron pipe.

The recent Office of Pipeline Safety (OPS) regulations on pipe integrity are impacting gas LDC's in Tennessee and across the country. Regulations require the inspection of high-pressure steel pipe by one of three methods: (1) hydrostatic testing, (2) internal inspection (pigging), or (3) direct assessment. Hydrostatic testing requires that the line be taken out of service and requires the proper disposal of hydrostatic test waters. Internal inspection requires that the line be "piggable," which many distribution mains are not. Direct assessment methods offer the best viable solution to the OPS requirements for nonpiggable lines. The establishment of direct assessment protocols validated by real-world tests for external corrosion, internal corrosion, and stress corrosion cracking of steel pipe are critical to moving forward on this issue. Bare, unprotected steel mains and bare, protected steel mains are two sections that may require this approach, depending on line pressure.

For high pressure gas distribution pipe, like that near or in Nashville, an alternative to steel pipe is high-strength plastic pipe, like PA-12. Such testing is already under way, but additional funding is needed to complete the testing and validate the life of this pipe.

Polyethylene (PE) gas pipe has proven to be impervious to corrosion and lower cost than steel gas mains. However, if the tracer wire used to help locate the plastic pipe has corroded away or been severed, the plastic pipe is almost impossible to locate from above ground, barring



GPS mapping of the pipe as it is put in the ground. Development of a plastic pipe locator that can operate under the unique clay, sand, and rocky soil conditions of Tennessee is needed.

For cast iron pipe, advanced technology for repair of pipe joints or replacement or lining of the cast iron is needed to reduce gas leaks at cast iron joints. Much of this pipe is over 100 years old.

Specific projects include:

- **Enhance Gas Main Integrity and Reduce Repair and Incident Costs through Ultrasonic Inspection** - Magnetic Flux Leakage (MFL) pigs measure wall loss in a gas pipeline, but not the remaining wall thickness that determines remaining strength, nor can they well measure corrosion cracking. Ultrasonic inspection can find cracks and measures the remaining wall thickness with a precision of a few percent but currently requires putting a liquid couplant in a gas pipeline. Transducers specialized for inspection in high pressure gas, as well as specialized inspection methods, can eliminate the need for a liquid couplant bringing the advantages of ultrasonic inspection to gas pipelines. Thus a delivery vehicle can be designed that readily bypasses pipeline obstructions. It could be propelled through an unpiggable pipeline by very flexible pig cups or by one of the robots being developed for use in unpiggable pipelines. The technical objectives of this program are to: develop ultrasonic transducers that work with high-pressure gas as the couplant; develop methods for inspecting pipes for corrosion using these Gas Coupled Ultrasonic transducers; and develop methods for inspecting for cracks using Gas Coupled Ultrasonic inspection
- **Enhance Integrity and Reduce Mandated Inspection Costs through Field-Eddy-Current Inspection of Unpiggable Lines** - The Office of Pipeline Safety has introduced rules that require inspection of pipelines and distribution mains in high consequence areas by

pigging inspection, hydrostatic testing, or direct assessment. Of these three choices, pigging costs the least while providing the most information on the condition of a pipeline. Unfortunately, most pipelines and high-pressure distribution mains cannot be inspected with current pigging technologies because of diameter changes, short-radius elbows and miter bends, offsets, reduced port valves and plug valves, and limited access to the pipeline. An examination of technologies that could inspect these unpiggable pipelines quickly leads to the conclusion that the Remote Field Eddy Current (RFEC) technique offers the potential to inspect unpiggable pipelines. The technical objective is to prove the feasibility of inspecting unpiggable pipelines by Remote Field Eddy Current inspection.

- **Monitor Internal Corrosion using Fluidized Sensors** - Internal Corrosion Direct Assessment (ICDA) holds promise to prioritize locations where corrosion could be occurring and therefore determine potential dig locations for detailed examinations. However, it does not provide a direct measure if water is present at the identified locations or if internal corrosion is active. A need exists to develop a complementary technology to ICDA that can be used to remotely detect and monitor internal corrosion in non-piggable gas pipelines. The objective of this project is to develop sensors on the order of a few millimeters to a few centimeters in size that can be introduced into the natural gas stream and then flow with the gas and accumulate at likely locations of internal corrosion, and validate that the sensor can reach such locations and accumulate there and then detect and remotely transmit the internal presence of water, measure its corrosivity, and determine the likely internal corrosion rate at that location.
- **Distribution and Pipeline Integrity Management (PIM) Risk Analysis and Asset Prioritization** - Distribution PIM regulations will significantly effect gas distribution

companies, both from a resource and financial perspective. Every distribution company will be required to implement methodologies, processes, and procedures to ensure compliance with these regulations. Collectively, the natural gas industry will be able to develop a superior solution at a fraction of the cost if companies work together rather than developing such approaches individually. The objective of this project is to take a risk-based approach to the evaluation and asset prioritization of utility distribution assets, determine input requirements to calculate relative risk, develop a software-based solution that could import asset information from existing sources such as utility mapping systems, and validate that customization is possible of risk-based algorithms based on operating conditions facing individual utilities.

- **Product Development of Obstacle Detection System Using Ground Penetrating Radar (GPR)** - Currently there are no commercial instruments available to sense the presence of obstacles in the vicinity of a horizontal directional drilling (HDD) bore used for installation of pipes. In the on-going project under the sponsorship of GTI, a new advanced GPR system, mounted on the drill head of an HDD that is capable of detecting obstacles such as sewer pipes or other utility lines in the proximity of the bore is being developed. However, this system will require further enhancements to be suitable as a commercially acceptable product from its current pre-production status. The objective of the proposed work is to develop and field test a production prototype version of the drill head mounted GPR applying the results of the past developments.
- **Alternative to Squeeze-Off for Plastic Pipes** - Squeeze-off is commonly used to stop the flow of gas in plastic gas pipes. However, the use of squeeze-off can initiate the development of slow-crack growth, leading to the premature failure of the pipe. This project will develop

an alternative to the squeeze-off technique which will permit the stopping of gas flow in a plastic pipe without damaging the pipe or initiating slow crack growth, thus extending the useful life of plastic pipes presently in use. This will enhance pipe lifetime and create significant O&M cost savings for gas utilities and their customers.

- **Service Applied Main Stopper** - This project focuses on enhancing safety and lowering the costs associated with emergency gas shut-off due to third-party damage, through the development of an innovative tool and method of use. The Service Applied Main Stopper (SAMS) project objectives are to develop technology and the necessary tools that will utilize existing customer service lines and meter sets to isolate pipe ruptures and stop the flow of gas, reduce costs by minimizing excavations through the use of the SAMS "no-dig" technology, and decrease the isolation area, which will reduce customer outages and impact due to third-party main damage
- **Camera Inspections on Live Mains Through Keyholes** - With aging gas main infrastructure, gas utilities face an ever increasing challenge to inspect and repair these pipes. Internal camera inspections provide an effective method to evaluate the condition of these aging mains. The project objectives are to use existing internal cameras and enable them to be installed through keyholes 18-inches in diameter and smaller. This project also requires the ability to install and tap a fitting through a keyhole in order to insert the camera. It is anticipated that this will apply to cast iron, steel and polyethylene (PE) pipes.
- **Nonlinear Acoustic Pipe Inspections** - Currently no good method exists that reliably inspects for cracks in natural gas steel or plastic piping. Nonlinear acoustics shows promise as a method for quickly inspecting for cracks during construction or at an excavation, and could be adapted to pigging, or inline inspection. The objective of this project is to validate

that nonlinear acoustics can detect and locate cracks reliably and to develop the method to detect, locate, and estimate crack size.

- **Polyamide 12 (PA12) Pipe for High-Pressure Applications:** Following on the successful R&D on Polyamide 11 (PA11), this project will continue to investigate advanced plastics materials for higher pressure and larger diameter gas main applications. PA12 holds the promise of being less expensive than PA11, and is capable of operating at larger diameters and higher pressures. The objective of this R&D is to perform comprehensive testing (laboratory and field) to validate technical feasibility and facilitate development of industry standards and specifications, regulatory approvals, and widespread industry acceptance of PA12.
- **Tow Tension Monitor (TTM)** - A TTM device currently is being designed to help prevent overstressing of PE pipe during horizontal directional drilling (HDD) operations by providing a real-time tensile load measurement value at the towing head. Such a device will help to assure long-term gas main safety, as it will verify that the pipe is not being compromised by the pulling operation. The objective of this project is to advance the initial R&D in this area by developing a production prototype device, including upgrading transducers and operator interfaces, and performing in-ground field tests at difficult locations (e.g., river crossing and railroad crossing) to validate performance under real-world field conditions.

### **III. PROPOSAL FOR AN R&D SURCHARGE**

GTI proposes that an R&D surcharge be instituted in order to meet the above needs to (1) develop increased-efficiency gas end-use technologies for low-income and other customers and (2) support the development of gas technology to increase gas system integrity, safety, and

deliverability and lower LDC O&M costs. GTI proposes (1) \$100,000 per year per company for end-use equipment Utilization Technology Development (UTD) to fund the low-income customer efforts and (2) \$250,000 per year per company be assessed for Operations Technology Development (OTD) to fund the system integrity and safety projects. This would come to \$350,000 per year per company, (using average volumes per company of about 20 Bcf/yr) or about 1.75 cents/MMBtu. (For reference, the former FERC-approved R&D surcharge was 1.74 cents/MMBtu in 1998.) GTI proposes to limit funding to the FERC 1998 level of 1.74 cents/MMBtu.

These dollars would be assessed to all Tennessee customers of investor-owned LDC's, and collected by the LDC's to fund projects (from the above list of candidate projects) of their choice (with TRA oversight) to benefit Tennessee gas consumers in the increased-efficiency and operations R&D in the above-indicated areas of need. (Many of the Tennessee municipals are already collecting the R&D surcharge, including Memphis Gas Light & Water, Middle Tennessee, Jackson Energy Authority, and the Brownsville Utility Department.)

#### **IV. CONCLUSION**

Gas Technology Institute appreciates having the opportunity to provide these comments and proposals concerning emerging trends in the gas industry. GTI would welcome the opportunity to address these issues at a workshop or other forum for discussion.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Dale Grimes", is written over a horizontal line.

R. Dale Grimes (#6223)

BASS, BERRY & SIMS PLC

AmSouth Center

315 Deaderick Street, Suite 2700

Nashville, Tennessee 37238

(615) 742-6244

*Attorneys for Gas Technology Institute*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing has been served on the following person(s), via the method(s) indicated, on this the   7   day of March, 2005:

<input type="checkbox"/> Hand	D. Billye Sanders, Esq.
<input checked="" type="checkbox"/> Mail	Waller Lansden Dortch & Davis PLLC
<input type="checkbox"/> Facsimile	511 Union Street, Suite 2100
<input type="checkbox"/> Electronic	P.O. Box 198966
	Nashville, Tennessee 37219-1760
<input type="checkbox"/> Hand	James H. Jeffries, Esq.
<input checked="" type="checkbox"/> Mail	Moore & Van Allen, PLLC
<input type="checkbox"/> Facsimile	Suite 4700
<input type="checkbox"/> Electronic	100 North Tryon Street
	Charlotte NC 28202-4003
<input type="checkbox"/> Hand	Joe A. Conner, Esq.
<input checked="" type="checkbox"/> Mail	Misty Smith Kelley, Esq.
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<input type="checkbox"/> Electronic	1800 Republic Centre
	633 Chestnut Street
	Chattanooga, TN 37450-1800
<input type="checkbox"/> Hand	Timothy C. Phillips, Esq.
<input checked="" type="checkbox"/> Mail	Vance L. Broemel, Esq.
<input type="checkbox"/> Facsimile	Consumer Advocate and Protection
<input type="checkbox"/> Electronic	Office of the Tennessee Attorney General
	P.O. Box 20207
	Nashville, TN 37202

  
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3 TN REGULATORY AUTHORITY  
DOCKET ROOM

March 4, 2005

Ms. Sharla Dillon  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

Dear Ms Dillon

Enclosed is one original and 13 copies of Atmos Energy Corporation's comments in Docket No. 05-00045. I submitted these on Monday, February 28<sup>th</sup> to Chairman Miller with copies to the Directors. If you have any questions, please contact me at 615-771-8332

Sincerely,

  
Patricia J Childers  
VP Rates & Regulatory Affairs

# **TAB 4**

## **Filing Guidelines for Rate Cases**

## **FILING GUIDELINES FOR RATE CASES**

*To avoid duplication of requested information, assure more orderly and timely investigations, and provide better support for rate filings, the Tennessee Regulatory Authority ("TRA") offers a natural gas distributor filing an application for a rate increase the option of providing supporting information with its application. This information is commonly sought by the TRA and the Consumer Advocate and Protection Division ("CAPD"), as intervenor, in data requests after the filing of an application. Accordingly, the TRA requests that an applicant provide responses to the following preliminary requests for information along with any application for a rate increase. These requests for information apply to any application for a rate increase submitted by a natural gas distributor, local distribution company or its parent company, multi-state utility, or affiliated utility service company. These requests are intended to initiate, and should be regarded as part of, the data request process. The provision of information in response to these requests at the time of filing an application for a rate increase is entirely optional.*

*Notwithstanding the applicant's response to these requests, the TRA, and any potential intervenor, retain the right to submit and require responses to subsequent data requests on any relevant topic, including any topic covered in these requests. The failure to file any specific information shall not be grounds for non-acceptance of the application or for an extension of the time intervals set forth in Tenn. Code Ann. §65-5-203. However, should the applicant choose to respond to these requests, the TRA requests that the applicant explain any instance where a question is not responded to in full. The filing of the data requested here does not waive any objection as to the admissibility of the data in evidence.*

*In responding to these requests, the applicant should provide the most current, accurate, and comprehensive information available at the time of the response. In making its responses, the applicant should employ those persons who are most knowledgeable regarding the requested information. All information should be presented in a manner designed to promote clear understanding and assessment.*

### **ADMINISTRATIVE**

1. Enclose a \$25 filing fee.
2. The Tennessee Regulatory Authority ("TRA") requires an original and thirteen (13) copies of the filing.
3. All schedules requested as a computer file and/or a CD are to be provided in Microsoft Excel 97 or Microsoft Word readable format and Word Perfect readable format for files sent to the Consumer Advocate and Protection Division ("CAPD").

4. "LDC" means the utility operation that provides natural gas service in the State of Tennessee. If the LDC is a separate legal entity, including but not limited to, a subsidiary of another corporation, "Parent" means the entity who owns 50% or more of the voting securities of the LDC. If the LDC is an operating division of an entity that is engaged in the natural gas utility operations in states other than Tennessee, "Multi-State Utility" means the entity of which the LDC is an operating division. "Affiliate" means any entity that controls, is controlled by, or is under common control with the LDC. "Affiliated Utility Service Company" means a utility service company that provides services to affiliated regulated utilities and is organized and regulated in accordance with the Public Utility Holding Company Act.
5. Whenever "latest" information is requested, this information should not be over 90 days old at the time of filing (unless the latest information is more than 90 days old) and should be updated after filing, if material changes occur.
6. "Attrition period (year)" means a twelve-month period beginning approximately six months from the filing date of the proposed rates.
7. Please respond fully to each item, even if the data has been partially supplied in prior filings or dockets. Information supplied in one item can be referenced if asked for again in another item.
8. Responses to the requests listed here are to be supplied to the TRA at the following address:

Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

In addition, the TRA requests that the applicant include an additional two (2) copies of its response in both paper and on a CD in Word Perfect Readable format to the TRA, which the TRA may then make available to the Consumer Advocate and Protection Division. At its option, the applicant may submit these additional copies directly to the Consumer Advocate and Protection Division at the following address:

Tennessee Attorney General's Office  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202

9. Each copy of the responses should be placed in loose-leaf binders with each item tabbed. Each response should begin by restating the item request. If several sheets are required to answer an item, each sheet should be appropriately labeled and indexed, for example, Item 1(a), Sheet 1 of 4.

10. For each item responded to, indicate the witness whose testimony would encompass the information requested, where applicable.
11. For data requested that is also supplied in summary form on the PSC 3.03 reports for the test period only, please reconcile your response to these reports if a variance exists.
12. Unless otherwise specifically requested, information shall be required for the LDC only (i.e., for the Tennessee natural gas utility operations only).
13. Information for which a claim of confidentiality or privilege is claimed should be filed in a sealed envelope marked "Confidential and Privileged." Any such information will be reviewed by the TRA Staff or the CAPD only after an appropriate non-disclosure agreement has been agreed to. In the absence of the agreement of the party claiming confidentiality or privilege, no such confidential or privileged information may be placed on the TRA's web site or otherwise made public until after the filing party has been given 10 days notice of an Order of the TRA requiring such public disclosure, during which period of time, any interested party may seek a Protective Order from any court having jurisdiction to issue the same.

## GENERAL

14. If material to the LDC's cost or level of service in Tennessee, please provide a comprehensive discussion of all abnormal conditions or changes in condition that (a) occurred during the last three years or (b) are reasonably anticipated to occur up to the anticipated hearing date in this case. Explain how these changes will affect the LDC's Tennessee operations going forward. The discussion should include, but not be limited to the following:
  - a. Management changes
  - b. Operational changes
  - c. Administrative changes
  - d. Recent or pending mergers, consolidations, or acquisitions
  - e. Major changes in sales or transportation volumes
  - f. Pending negotiations for possible changes in sales or transportation volumes to any current or prospective commercial or industrial customer.
  - g. Changes in pipeline allocations.
  - h. Labor contracts and/or Union problems
  - i. Expenses
15. State the effect that each of the applicable changes discussed in Item 14 has had or will have on the LDC's, its Parent's, Multi-State Utility's, or Affiliated Utility Service Company's, revenues, expenses, rate base, and capital structure, including the LDC's, its Parent's, Multi-State Utility's, or Affiliated Utility Service Company's, method of allocating each change among its regulated, unregulated, and jurisdictional operations.

16. Provide a current organizational chart for the LDC and, if applicable, its Parent, Multi-State Utility, or Affiliated Utility Service Company, showing for each officer (or any other key personnel) of the LDC, its Parent, Multi-state Utility, or Affiliated Utility Service Company: (a) the department(s) they head, and (b) to whom they report, from department or office level up. Only officers and key personnel, all or some portion of whose compensation is sought to be recovered from Tennessee ratepayers, must be included in the chart.
17. Provide six (6) copies of the Annual Stockholder Reports, the 10K reports, and 10 Q reports for the LDC, its Parent, Multi-state Utility, or Affiliated Utility Service Company, for the last three (3) years.
18. If the LDC is a separate entity, provide a current chart of accounts for the LDC and, if applicable, its Affiliated Utility Service Company. If the LDC is an operating division, also provide a current chart of accounts for the Multi-state Utility.
19. Provide copies of all rate case orders for the LDC, its Parent, Multi-State Utility, or Affiliated Utility Service Company issued since the LDC's last rate case or within the past three (3) years, whichever time is shorter.
20. Provide any costs associated with any employment and/or termination contracts the LDC, its Parent, Multi-State Utility, or Affiliated Utility Service Company has or has had with management personnel since the last rate filing in Tennessee, and provide copies of such.
21. Provide a detailed General Ledger for the latest 24 months for the LDC, its Parent, Multi-State Utility, and Affiliated Utility Service Company.
22. If the LDC, its Parent, Multi-State Utility, or Affiliated Utility Service Company, seeks to recover in its rates to the Tennessee ratepayers any separation payments made under any of the contracts, state the amount of any separation payments since the last rate filing in Tennessee.
23. Provide a detailed Trial Balance for the last two (2) fiscal years for the LDC, its Parent, Multi-State Utility, and Affiliated Utility Service Company, by month, by account, including adjusting entries and post-closing balances.
24. If not provided in response to other items, provide the latest fiscal year-end Income Statement and Balance Sheet for the LDC, its Parent, Multi-State Utility, and Affiliated Utility Service Company. Provide an explanation of any differences in the year-end Income Statement and Balance Sheet for the LDC, its Parent, Multi-State Utility, and Affiliated Utility Service Company as set forth in its Annual Report to shareholders and its internal financial statements.
25. Provide all detailed workpapers, cost studies, or other data supporting all proposed tariff changes, adjustments to revenues, expenses, rate base, and other changes included in the

testimony and exhibits filed by the LDC. Provide computer files containing schedules for all computer-based calculations.

26. Provide a detailed list of all the LDC's affiliated party transactions for the past two years, including the nature and amount of each transaction.
27. Provide a list of outside professional services, as recorded in NARUC Account No. 923, provided to the LDC for the past two (2) years, showing the nature of each service and the total charge for each service.
28. Provide a list of the LDC's customer service initiatives, and performance measures, including a description and analysis of the effectiveness of each for the last two (2) years. If applicable, the analysis should include, but not be limited to, time to connect the customer to the system, response time to service inquiries, restoring of service, new meter installations, billing inquiries, meeting appointment times, etc. If you have identified other areas that you monitor, include them in this response.
29. Please provide support for **all** statistics referenced in all testimony filed by the LDC in this case.

#### **REVENUES (EXCLUDING MERCHANDISE AND JOBBING)**

30. Identify the LDC's twenty-five (25) largest customers, based on volumes delivered, for the latest fiscal year. If the LDC projects a material change in the volumes delivered or rates charged to any such customer, provide a mailing address, contact person, telephone number, and the following information for each customer:
  - a. Transportation and sales volumes by tariff and by month for the last three (3) fiscal years for each customer, including the step volume information for the appropriate classification.
  - b. Copies of all correspondence and notes of discussion or meetings with these customers regarding their anticipated usage from the test period through the attrition period.
31. Provide the number of the LDC's customers by rate classification and by month for the last three (3) fiscal years. Provide a summary schedule showing the number of days in each billing cycle for each month for the latest 18 months. Provide computer files for this information.
32. Provide a list of the LDC's customers who have changed rate classes in the test period. Show the schedule movement and any adjustments you have made to the bills and usage for the attrition period. Provide the number of net additions by customer classification and by month for the latest 24 months.

33. Provide the number of the LDC's billing cycles per month and the identity of any specific groups of customers billed on a particular cycle.
34. Provide a copy of all weather normalization workpapers used in projecting attrition period revenues. Provide weather normalized (if applicable) sales volumes in dekatherms, by class of customer and supporting documentation for the test period. Provide computer files for this information.
35. Provide a copy of any usage and growth trends and any adjustments used to project revenues.
36. Provide the computation of an average bill for a residential heating customer under the present and proposed rate schedules.
37. Provide the computation of the average cost of adding a new residential customer in Tennessee for the last three (3) fiscal years.
38. Provide a breakdown by source of all revenues shown as "Other Operating Revenues" for the test period and attrition period. Include the units and rates for each source.
39. Explain any large variances in Other Revenues between the test period and the attrition period.
40. List all special contract customers and their usage by month during the test period. Explain any anticipated changes in usage during the attrition period.
41. Provide a comparative analysis of heating costs for a typical residential customer using current electric and gas rates. State the Company's assumptions in preparing this analysis, along with backup for those assumptions.

## **EXPENSES**

42. For all NARUC or FERC accounts 700 through 932, show the gross and net expense after deducting salaries and wages, by month, since the lesser of (a) the last three (3) fiscal years or (b) the filing date of the last rate case. Also, provide the same information projected for the attrition year.
43. Provide detailed schedules explaining the calculation of the growth factor used to project expenses through the attrition year. Please break down the calculation between the inflation and customer growth components.
44. Provide a schedule(s) of employees for the test period, identifying them as hourly or salaried, part or full time, and the account to which their compensation is charged. Identify the regular, overtime, and total hours worked during the test period. Also, show the regular and total earnings during the test period. For those employees working only a



partial year, give the dates of employment. Identify pay raises, month and percentage, from the test period through the attrition year. Where appropriate, show the allocation of compensation for such employees or appropriate employee group between states and between utility and non-utility operations. Also, indicate any anticipated changes in employment levels through the attrition period.

45. Provide a schedule showing by month, for the last two (2) fiscal years through the test period, identifying the amount and percentage of total payroll capitalized on a total Company, total LDC, and Tennessee only basis. Provide a detailed calculation of the percentage used to capitalize payroll for the attrition period.
46. Provide a description of each type of service that employees of the Parent, Multi-state Utility, or Affiliated Utility Service Company perform for the Tennessee operations.
47. Provide copies of the latest labor union contracts for the LDC.
48. For the test period and attrition period, provide detailed workpapers supporting the calculation of the life insurance expense, long-term disability, hospitalization and medical expenses, and other miscellaneous employee insurance expenses. Show the total and capitalized amounts. Provide actual rates for the benefits that the LDC pays. Provide the amounts that the employee contributes for these benefits.
49. Provide a liability and property insurance schedule for the test period, identifying the policies in effect, the type of coverage, the coverage period, the annual premiums, the amount included as an expense, the account charged, the beneficiaries and the allocation used. Also, provide the same information for those policies currently in effect and any anticipated changes in policies through the attrition period. Where applicable, provide the name of the insurance company with a contact person and telephone number.
50. Provide the latest actuarial studies for pension expense and liabilities (FAS 87) and post employment benefits other than pensions (FAS 106).
51. Does the LDC have a written policy regarding non-base pay compensation or stock options? If so, please provide a copy of this policy. Were any amounts paid or accrued during the test period? If so, please provide a schedule of employees, showing the amount paid or accrued and the basis of the calculation. Provide the same information for the attrition period.
52. Provide a detailed analysis of advertising expense for the test period. Provide and discuss the LDC's projected advertising expenses from the end of the test period through the attrition period. For each month, identify the amount of advertising classified as follows:
  - a. Institutional
  - b. Conservation
  - c. Informational
  - d. Promotional

- e. Promotional for the sale of appliances
- 53. Provide the amount of expense recorded in NARUC Account 931 for the rental of equipment or other property, for each month of the test period. Provide copies of Lease Agreements if applicable.
- 54. Provide a schedule identifying all directors of the LDC, its Parent, Multi-state Utility, or Affiliated Utility Service Company, dates of meetings attended, and the amount of directors' fees attributable to each meeting for each month of the test period. Identify the account to which these fees are booked.
- 55. Provide a copy of the LDC's Cost Allocation Study and support for any proposed changes in rate design.
- 56. Provide the amount of direct and allocated charges to the LDC from its Parent, Multi-State Utility, or Affiliated Utility Service Company, by account, for each month of the test period and the projected amount for each month of the attrition period.
- 57. Provide the amount of each lobbying expense, charitable contribution, social club membership and athletic event paid by its Parent, Multi-State Utility, or Affiliated Utility Service Company and allocated to the LDC for each month of the test period and included in costs to be recovered in regulated rates. Provide the same information and breakdown for any amounts paid directly by the LDC and included in costs to be recovered in regulated rates. Identify the accounts charged for each amount.
- 58. Provide a detailed itemization of the rate case costs by law firm and rate case consultant.
- 59. Please identify any changes since the last Tennessee rate case in the Long-Term Incentive Plan ("LTIP") criteria for compensation. Further, identify the amount and account charged for the LTIP in the test period and the attrition year.

## **TAXES**

- 60. Provide copies of the following tax returns (state and federal) for the most recent three (3) tax years:
  - a. Tennessee Gross Receipts Tax Returns
  - b. Tennessee Franchise and Excise Tax Returns
  - c. Property tax statement Tennessee Ad Valorem Tax Report
  - d. Employer's Quarterly Federal Tax Returns (Form 941)
  - e. Employer's Annual Federal Unemployment Tax Return (Form 940)
  - f. Employer's Quarterly Contribution Report to the Tennessee Department of Employment Security

61. Provide the following Federal Income Tax data for the Tennessee Operations for the test year and the attrition year:
  - a. The calculation of the LDC's federal income tax expense. The calculated amount should reconcile to the amount reported on the Tennessee PSC 3.03 surveillance reports
  - b. A detailed calculation of the permanent book and tax differences
  - c. A detailed calculation of the temporary book and tax differences
  - d. Operating federal income taxes deferred – accelerated depreciation
  - e. Federal income taxes – operating
  - f. Income credits resulting from prior deferrals of federal income taxes
62. Provide a reconciliation of book to taxable income and a calculation of the federal income tax expense on a total Company, total LDC, and Tennessee only basis for the test period and for the attrition period.
63. Provide the unemployment tax rate presently being paid, broken down into state and federal rates, and any anticipated change in the state unemployment rate.

#### **RATE BASE (EXCLUDING WORKING CAPITAL)**

64. Provide monthly plant additions and retirements by account number for the last three (3) fiscal years to include the test period. Please break down plant additions into normal or special projects, as defined below:
  - a. Normal construction requirements should be considered to include the needs created through normal system expansion, such as serving residential areas, shopping areas, old home conversions, replacements of tools and work equipment, transportation equipment, etc.
  - b. Special construction requirements should be considered to arise from extensive replacement of old facilities which cannot be foreseen, major expansion projects such as industrial parks, system improvements such as change from low pressure to high pressure required because of changing delivery patterns, and changes required by government action such as street improvement and relocation, community and neighborhood development, bridge replacement, etc. These requirements should be considered to be outside the control of the LDC.
  - c. For the last three (3) fiscal years, identify any contributions in aid of construction.
65. Break down budgeted plant additions between normal and special projects, using the criteria defined above, for the months between the end of the last fiscal year and the end of the attrition period. Provide sufficient detail of each individual project as to the date of inception and completion, and the proposed methods of financing. Identify those budgeted plant additions that are in process or have already been completed. Basic assumptions underlying budgets should also be submitted including the assumptions for sales volumes.

66. Identify all special projects from the end of the test period through the attrition period, using the criteria defined in Item 64 above, by work order number and include the estimated cost. Provide a signed authorization for each special project and identify the planned starting and completion dates.
67. Identify by account the salvage and cost of removal for retirements provided in response to Item 64 for the last four (4) fiscal years to include the test period.
68. Describe the LDC's budgeting process including, but not limited to the following:
- a. How far in advance are operating and construction budgets prepared? On what basis is the total operation and construction budget determined? Explain the "approval process" in budget development.
  - b. How many views or updates of the same budget year are made before a final view is adopted?
  - c. Are budgets prepared on a monthly, quarterly, or annual basis?
  - d. Which individual or department has overall responsibility for budgets/reconciliations?
  - e. Once a final budget has been adopted, are budget to actual (reconciliation) comparisons routinely made? How frequently are reconciliations prepared and by whom?
  - f. For the last two (2) completed fiscal years, provide copies of all budgets, budget to actual and indicate reasons for the variances.
  - g. Comparisons on a total Company, total LDC, and Tennessee only basis.
  - h. Provide total LDC and Tennessee Operations budgets and all supporting workpapers for the current fiscal year and next fiscal year.
69. Provide schedules showing the development of the average Tennessee account balances listed below for the last fiscal year. (If partially provided in other items, provide the remaining data here.)
- a. Gas Plant in Service
  - b. Construction Work in Progress
  - c. Inventories
  - d. Deferred debits
  - e. Reserves
  - f. Customer Deposits
  - g. Interest on Customer Deposits
  - h. Contributions in Aid of Construction
  - i. Accumulated Deferred FIT
  - j. Accumulated Depreciation
  - k. Accounts Payable applicable to CWIP
  - l. Accounts Payable applicable to Materials & Supplies
  - m. Customer Advances
  - n. Materials and Supplies

- o. Accounts Receivable – Other
  - p. Prepaids
- 70. Provide an explanation and calculation of the method used to allocate to Tennessee any portions included in Item 69 above.
- 71. Provide the investment, accumulated depreciation, and deferred FIT on all property that is owned by an affiliate of the LDC, its Parent, Multi-State Utility, or Affiliated Utility Service Company, where applicable, and leased or allocated to the LDC or Multi-state Utility. An operating division of a Multi-State Utility is not an affiliate.

## **WORKING CAPITAL**

- 72. Has the LDC updated the Lead-Lag Study since its last rate case? If so:
  - a. Provide a copy of the Lead-Lag Study workpapers.
  - b. Provide the percentage of the sample tested to the total test period dollar amount for each account in the Lead-Lag Study.
  - c. Provide a comparison of the Lead-Lag Study used in this case with the Study used in the previous case and explain any major changes.
- 73. Provide a description of the policy of the LDC, its Parent, Multi-State Utility, or Affiliated Utility Service Company, with respect to maintaining minimum cash balances. Provide copies of supporting management directives or minutes from directors' meetings supporting such policies.
- 74. Provide a list of all the LDC's checking accounts, identifying the nature and use for each. Provide a copy of all the LDC's bank statements for each month during the test period.

## **MERCHANDISE & JOBBING AND OTHER NON-REGULATED OPERATIONS**

- 75. Explain the nature and extent of each of the LDC's or, where applicable, Multi-state Utility's non-regulated operations.
- 76. Provide an Income Statement and identify assets devoted to and liabilities specifically arising from non-regulated operations of the LDC, its Parent, Multi-State Utility, or Affiliated Utility Service Company, for the last two (2) fiscal years. For each year, identify each class of revenue separately (appliance, propane sales, etc.). The statements should include the following information for each year:
  - a. The direct expense incurred by the LDC for each operation.
  - b. The general office expense allocated to each operation by the LDC, its Parent, Multi-State Utility, or Affiliated Utility Service Company

- c. All expenses charged to the LDC, its Parent, Multi-State Utility, or Affiliated Utility Service Company, from the non-regulated activities.
  - d. All revenues billed by the LDC's regulated operations to the non-regulated operations.
77. Provide a complete explanation and calculation of how costs (other than salaries and wages) as requested above were allocated to non-utility operations for the test period and for the period from the end of the test period through the attrition period.
78. Provide the percentage of non-regulated labor for the test period.

### **COST OF CAPITAL**

79. Provide a calculation of the LDC's, its Parent's, Multi-State Utility's, or Affiliated Utility Service Company's, debt, equity capital and the debt and equity ratios for the last two (2) years. Show long and short-term debt, preferred stock and common equity separately.
80. Provide a copy of any information filed with other Regulatory Commissions (other than the Tennessee Regulatory Authority) where such information describes the Company's debt position and equity position. Provide all data submitted in the last twelve-(12) months and also on a forward-going basis.
81. Provide a calculation of the average composite interest cost for the long-term debt and short-term debt for the last two (2) years.
82. Provide a schedule identifying the following for the LDC, its Parent, Multi-State Utility, or Affiliated Utility Service Company, for the last two (2) fiscal years and adjust for any stock splits:
- a. Primary earnings per share
  - b. Fully diluted earnings per share
  - c. Dividends per share
  - d. Book value per share
  - e. High market price for each year
  - f. Low market price for each year
  - g. Average market price for each year
83. Provide a schedule identifying the date and amount of each common stock dividend paid during the last three (3) fiscal years. Include any announced future dividend payments and adjust for any stock splits.
84. Provide the computer file showing items below for the Parent, Multi-State Utility, or Affiliated Utility Service Company, for each of the last fifteen (15) fiscal years:

- a. Earnings, annual dividends declared, annual dividends paid, book value of common equity, and price of common equity (each item should be shown per average actual common share outstanding, adjusted for stock splits and stock dividends)
  - b. Rate of return to average common equity
  - c. Common stock earnings retention ratio
  - d. For common stock not issued to the public, but issued pursuant to a) tax reduction act stock ownership plans, b) employee stock option plans, and c) dividend reinvestment plans, provide net proceeds per common share issued, and number of shares issued and previously outstanding at the beginning of the year. Provide the information separately for each of the three (3) types of plans and report each plan's information as annual aggregate or as an average and indicate whether you are providing an average or aggregate figure.
  - e. For those issues of common stock sold to the public and not falling under d. above, provide:
    - 1) Date of issue
    - 2) Number of shares issued and previously outstanding for each issue and in the aggregate
    - 3) Number of shares sold to the public
    - 4) Gross proceeds per share from the public
    - 5) Net proceeds per share from the public
    - 6) Price per share to the public
85. In a computer file, provide the balance for the following for each month of the latest fiscal year:
- a. Long- and medium-term debt by issue and aggregated
  - b. Preferred stock by issue and aggregated
  - c. Common equity
86. In a computer file, provide a schedule, for each month of the latest fiscal year, showing interest rates, dividend rates, the monthly amortization of discount, premium and issuance expense and the monthly unamortized balances of discount, premium and issuance expense for long-term debt and preferred stock identified in response to the item above. Specifically, be sure to provide in your response for each month the balances by issue for unamortized discount, premium, and issuance expense for all of the Parent's, Multi-State Utility's, or Affiliated Utility Service Company's long- and medium-term debt and preferred stock, if any.
87. In a computer file, provide for each month of the latest fiscal year the balances of capital surplus. Separate the surplus between common and preferred stock. For purposes of this request, "capital surplus" means amounts paid in that are less than or are in excess of par value of the respective stock issues.

88. In a computer file, provide unamortized balances, if any, on the gain or loss on reacquired preferred or preference stock for each month in the latest fiscal year. Clearly identify the issue for each unamortized balance.
89. In a computer file, provide the monthly amortization of any gain or loss on reacquired preferred or preference stock, if any, for each month of the latest fiscal year.
90. In a computer file, provide the unamortized balances, if any, of gain or loss in reacquired long-term debt for each month in the latest fiscal year. Be sure to clearly identify the issue for each unamortized balance.
91. In a computer file, provide the monthly amortization, if any, of the gain or loss on reacquired long-term debt for each month of the latest fiscal year.
92. If applicable, provide the amount of return on investment billed to the LDC by any affiliate of the LDC for the latest fiscal year and for the attrition period. Include in your response a calculation of the return on equity percent and the account charged for the return amount. As used in this Item 92, "affiliate" means any entity that controls, is controlled by, or is under common control with the LDC, its Parent, Multi-State Utility, or Affiliated Utility Service Company.
93. For the latest two (2) fiscal years and for each month to the present for which data is available, provide a monthly listing of the shares of common stock sold by the LDC directly to investors and shareholders. Separate the monthly listing between stock sold through the Stock Purchase Plan of the LDC and stock sold through the Dividend Reinvestment Plan of the LDC.
94. Provide copies of the LDC's projected annual equity ratio for the next five (5) fiscal years.
95. Provide copies of the LDC's projected new stock and debt issues for the next five (5) fiscal years.
96. Provide copies of the LDC's projected annual dividends per share of common stock for the next five (5) fiscal years.
97. If material to the Tennessee Operations, provide copies of projected annual earnings per share of common stock for the next five (5) fiscal years.
98. If not provided in response to Item 17, provide the most recent 10K filed with the SEC.
99. Provide the number of stockholders of record for the LDC, its Parent, Multi-State Utility, or Affiliated Utility Service Company for the last ten (10) fiscal years.



# **TAB 5**

**Redlined Version of  
Purchase Gas Adjustment Rule**

## 1220-4-7-.02 GENERAL PROVISIONS

- (1) These Purchased Gas Adjustment (PGA) Rules are intended to permit the company to recover, in timely fashion, the total cost of gas purchased for delivery to its customers and to assure that the Company does not over-collect or under-collect Gas Costs from its customers
- (2) These Rules are intended to apply to all Gas Costs incurred in connection with the purchase, transportation and/or storage of gas purchased for general system supply, including, but not limited to, natural gas purchased from interstate pipeline transmission companies, producers, brokers, marketers, associations, intrastate pipeline transmission companies, joint ventures, providers of liquefied natural gas (LNG), liquefied petroleum gas (LPG), substitute, supplemental or synthetic natural gas (SNG), and other hydrocarbons used as feed-stock, other distribution companies and end-users, whether or not the Gas Costs are regulated by the Federal Energy Regulatory Commission and whether or not the provider of the gas, transportation or storage is affiliated with the Company
- (3) Any revision in the PGA shall be filed with the Authority no less than three (3) days prior to the settlement date for the NYMEX futures front-month gas contract
- (4) The rates for gas service set forth in all of the Rate Schedules of the Company shall be adjusted pursuant to the terms of the PGA, or any specified portion of the PGA as determined by individual Rate Schedule(s)
- (5) No provisions of these rules shall supersede any provision of a special contract approved by the Authority

**Authority:** TCA §§65 -2-102 and 65-4-104 **Administrative History:** Original rule filed October 29, 1993, effective March 1, 1994 Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995, "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority", effective March 28, 2003

**Deleted:** To the extent, practicable, a

**Deleted:** thirty

**Deleted:** 0

**Deleted:** in advance of the proposed effective date and shall be accompanied by the computations and information required by these Rules

**Deleted:** It is recognized, however, that in many instances the Company receives less than thirty (30) days notice from its suppliers and that other conditions may exist which prevent the Company from providing thirty (30) days advance notice. Therefore, should circumstances occur where information necessary for the determination of an adjustment under these Rules is not available to the Company so that the thirty (30) days requirement can be met, the Authority may permit the Company to place rates into effect with shorter advance notice, upon good cause shown

# **TAB 6**

## **Sample Statutes**

(b) Copies of the last annual report not previously so submitted shall be available to the general assembly at the opening of each regular session.

(c) The annual report of the commissioner may be published on the order of the governor, if the governor deems the report to be of sufficient importance to the public. [Acts 1969, ch. 36, § 1 (2.111); 1973, ch. 294, § 6; T.C.A., § 45-118.]

**45-1-120. Records of department.** — (a) No information from the records of the department shall be revealed without the consent of the commissioner.

(b) Reports of examinations made by the department shall be retained for five (5) years.

(c) A copy of any document on file with the department which is certified by the commissioner as being a true copy may be introduced in evidence as if it were the original. The commissioner shall establish a schedule of fees for copies of documents [Acts 1969, ch. 36, § 1 (2.112); 1973, ch. 294, §§ 6, 17; T.C.A., § 45-119; Acts 1993, ch. 22, § 7.]

**45-1-121. Traveling expenses.** — The necessary traveling expenses in the discharge of the duties of the commissioner and examiners employed by the commissioner shall be audited by the commissioner of finance and administration and shall be paid monthly by warrants drawn by the commissioner of finance and administration on the State treasurer in favor of the commissioner of financial institutions. [Acts 1969, ch. 36, § 1 (2.113), 1973, ch. 294, § 6; T.C.A., § 45-120.]

**45-1-122. Suits to vacate and annul bank charters.** — In addition to other remedies provided in this chapter and chapter 2 of this title, the commissioner of financial institutions, in the name of the state, is authorized to institute a quo warranto, or other appropriate proceedings, to vacate and annul the charter of any bank where the bank has done or permitted such act or acts as under the law authorized a vacation of its charter, and no suit shall be instituted by any person to vacate the charter of any bank except by the commissioner. [Acts 1969, ch. 36, § 1 (2.114); 1973, ch. 294, § 6; T.C.A., § 45-121.]

**Cross-References.** Applicability to industrial banks, § 45-5-607

**Section to Section References.** This section is referred to in § 45-5-607

**45-1-123. Legal counsel for commissioner.** — (a) The district attorneys general in each county, when requested by the commissioner, shall, as a part of their official duty and without compensation, represent the commissioner in any suit that the commissioner may desire to bring, or that may be brought against the commissioner, in the commissioner's official capacity, in their respective counties.

(b) The attorney general and reporter shall advise the commissioner on any question of law submitted to the attorney general and reporter by the commissioner, respecting the commissioner's authority and duties under the law. [Acts 1969, ch. 36, § 1 (2.115); 1973, ch. 294, § 6; modified; T.C.A., § 45-122.]

**Cross-violation general**

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(j) The commissioner has the power to review the operations of any location engaging in activities as principal or on behalf of a state or out-of-state trust institution or any other company to determine if such location is engaging in unauthorized trust activity [Acts 1969, ch 36, § 1 (2 202), 1973, ch 294, § 6, 1978, ch 563, §§ 1, 2, T C A , § 45-702, Acts 1980, ch 540, § 1, 1987, ch 165, § 1, 1993, ch 31, § 1, 1996, ch 768, § 25, 1997, ch 9, § 1, 1999, ch 112, § 16 ]

**Compiler's Notes** Acts 1996, ch 768, which amended this section, is known and may be cited as the Bank Reform Act of 1996

**Section to Section References** This section is referred to in §§ 45-2-1408, 45-2-1603

**Textbooks** Tennessee Jurisprudence, 5 Tenn Juris , Banks and Banking, § 55

**Law Reviews** Local Government Law (Clyde L Ball), 6 Vand L Rev 1206

**45-2-1603. Confidentiality, disclosure and reproduction of information.** — (a) The information which shall be obtained by the commissioner, or any bank examiner in making an examination into the affairs of the bank, shall be for the purpose of ascertaining the true condition of the affairs of the bank, shall be privileged and confidential, shall not be subject to subpoena, and shall not be disclosed by the party making the examination to any person, except that the examiner shall report the condition of the affairs of the bank to the commissioner, and except that the commissioner is authorized to make the following disclosures from reports of examination

- (1) Within the department in the course of official duties,
- (2) To the federal deposit insurance corporation as provided in § 45-2-804 and to the federal reserve board, or its duly authorized representative, as provided in § 45-2-505,
- (3) To the federal reserve board, or its duly authorized representative, in the case of an application to form a bank holding company if the principal affiliate bank to be acquired is a state bank,
- (4) To the United States comptroller of the currency, or the comptroller's duly authorized representative, in the case of an application of a state bank for conversion to a national charter or to the comptroller in any other circumstance when the commissioner believes that such disclosure is in the interest of sound banking regulation,
- (5) To the United States department of justice, federal bureau of investigation, state district attorneys general, Tennessee bureau of investigation or the attorney general and reporter in the case of any criminal violation discovered during the course of an examination,
- (6) In any administrative proceeding or court action filed by the commissioner or the department to which the commissioner is an actual party,
- (7) To the directors of a state bank as provided in § 45-2-1602,
- (8) The comptroller of the treasury or the comptroller's designee for the purpose of an audit of the department of financial institutions, provided, that neither this section nor § 10-7-508 shall allow the comptroller or the comptroller's designee a right of access to names of debtors, depositors and other persons listed in a report of examination of a state bank,
- (9) The State treasurer and commissioner of finance and administration pursuant to § 9-4-402,
- (10) To other state financial institutions regulatory agencies,

(11) To the federal home loan bank board and the federal deposit insurance corporation, or their duly authorized representative, when the commissioner believes that such disclosure is in the best interest of sound banking regulation, and

(12) The securities division of the department of commerce and insurance

(b) Disclosures made under the preceding subsection shall be made under safeguards designed to prevent further dissemination of confidential information. If any agency or department that has received confidential information under the preceding subsection receives a valid subpoena to produce documents of the department of financial institutions or desires to use such documents in litigation, including, but not limited to, discovery proceedings, in which it is involved, the agency or department shall notify the department of financial institutions for permission to produce such documents. The commissioner may, in the commissioner's discretion, authorize the requesting agency or department to use such documents under a protective order approved by the commissioner and designed to prevent the unnecessary further dissemination of the documents.

(c) A bank may reproduce all or any part of a report of examination and send or deliver such reproduction to a bank holding company of which it is a subsidiary, and may also send or deliver such reproduced information to the bank's external auditors and legal counsel. Such disclosure shall not affect the confidential nature of the disclosed information.

(d) As used in this section, unless the context otherwise requires

(1) "Bank holding company" has the same meaning as in § 45-2-1402, and

(2) "Subsidiary," with respect to a specified bank holding company, means

(A) Any company, twenty-five percent (25%) or more of whose voting shares (excluding shares owned by the United States or by any company wholly owned by the United States) is directly or indirectly owned or controlled by such bank holding company, or is held by it with power to vote,

(B) Any company in which the election of a majority of whose directors is controlled in any manner by such bank holding company, or

(C) Any company with respect to the management or policies of which such bank holding company has the power, directly or indirectly, to exercise a controlling influence, as determined by the commissioner, after notice and opportunity for hearing.

(e) Notwithstanding any provision of this section to the contrary, the commissioner may, in the commissioner's discretion and in the interest of justice, and when under a validly issued subpoena, waive the privilege created herein and produce bank examination reports and other related documents under the provisions of a protective order entered by a court or administrative tribunal of competent jurisdiction where such order is designed to protect the confidential nature of the information so disclosed from public dissemination.

(f) Notwithstanding any other provision of the law to the contrary, confidential information regarding securities and investment functions of financial institutions, and known or suspected violations of the banking or securities laws, may be shared among the departments of financial institutions and commerce and insurance, the district attorneys general for the respective counties, the Tennessee bureau of investigation and the attorney general and



used or to be used for determining such criteria or standards, audit procedures, and any other information relating to tax administration,

(8) "Tax information" means a taxpayer's identity, the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax collected, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be, examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by, the commissioner with respect to a return or with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of any person for any tax, penalty, interest, fine, forfeiture, or other penalty, imposition or offense, administered by or collected by the commissioner, either directly or indirectly "Tax information" does not include data in a form which cannot, either directly or indirectly, be associated with, or otherwise be used to identify, directly or indirectly, a particular taxpayer,

(9) "Taxpayer identity" means the name of a person subject to a tax collected or administered by the commissioner, the person's mailing address, the person's taxpayer identifying number or account number, or a combination thereof, and

(10) "Unit of local government" means any county enumerated in § 5-1-101, any incorporated municipality, or any consolidated unit of any such counties and municipalities [Acts 1977, ch 152, § 1, T C A , § 67-131, Acts 2000, ch 982, § 39 ]

**Cross-References** Confidential records, § 10-7-504

**Section to Section References** This part is referred to in §§ 67-1-703, 67-3-503, 67-3-911

This section is referred to in § 67-1-703

**Attorney General Opinions.** Identifying numbers obtained by the state, county, or city

for reporting and enforcing the business tax, including federal employer identification numbers, social security numbers, or state sales tax numbers, are not considered public information, OAG 01-165 (11/15/01)

**Collateral References** Public access to records ⇐ 326 30-68

**67-1-1702. Confidentiality.** — Notwithstanding any provision of law to the contrary, returns, tax information and tax administration information shall be confidential and, except as authorized by this part, no officer or employee of the department and no other person, or officer or employee of the state, who has or had access to such information shall disclose any such information obtained by such officer or employee in any manner in connection with such officer's or employee's service as an officer or employee, or obtained pursuant to the provisions of this part, or obtained otherwise [Acts 1977, ch 152, § 1, T C A , § 67-132, Acts 2000, ch 982, § 40 ]

**Cross-References** Confidentiality of public records, § 10-7-504

**Textbooks** Pritchard on Wills and Administration of Estates (4th ed , Phillips and Robinson), §§ 944, 975

Tennessee Law of Evidence (2nd ed , Cohen, Paine and Sheppard), § 501 21

**Collateral References** Public access to records ⇐ 326 30-68

**67-1-1703. Disclosure to taxpayer or fiduciary.** — (a) The commissioner shall, subject to such requirements and conditions as may be prescribed by rules, disclose the return of any taxpayer, or tax information with respect to